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Title 3—

The President

Executive Order 14036 of July 9, 2021

Promoting Competition in the American Economy

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to promote the interests of American workers, businesses, and consumers, it is hereby ordered as follows:

Section 1. *Policy*. A fair, open, and competitive marketplace has long been a cornerstone of the American economy, while excessive market concentration threatens basic economic liberties, democratic accountability, and the welfare of workers, farmers, small businesses, startups, and consumers.

The American promise of a broad and sustained prosperity depends on an open and competitive economy. For workers, a competitive marketplace creates more high-quality jobs and the economic freedom to switch jobs or negotiate a higher wage. For small businesses and farmers, it creates more choices among suppliers and major buyers, leading to more take-home income, which they can reinvest in their enterprises. For entrepreneurs, it provides space to experiment, innovate, and pursue the new ideas that have for centuries powered the American economy and improved our quality of life. And for consumers, it means more choices, better service, and lower prices.

Robust competition is critical to preserving America's role as the world's leading economy.

Yet over the last several decades, as industries have consolidated, competition has weakened in too many markets, denying Americans the benefits of an open economy and widening racial, income, and wealth inequality. Federal Government inaction has contributed to these problems, with workers, farmers, small businesses, and consumers paying the price.

Consolidation has increased the power of corporate employers, making it harder for workers to bargain for higher wages and better work conditions. Powerful companies require workers to sign non-compete agreements that restrict their ability to change jobs. And, while many occupational licenses are critical to increasing wages for workers and especially workers of color, some overly restrictive occupational licensing requirements can impede workers' ability to find jobs and to move between States.

Consolidation in the agricultural industry is making it too hard for small family farms to survive. Farmers are squeezed between concentrated market power in the agricultural input industries—seed, fertilizer, feed, and equipment suppliers—and concentrated market power in the channels for selling agricultural products. As a result, farmers' share of the value of their agricultural products has decreased, and poultry farmers, hog farmers, cattle ranchers, and other agricultural workers struggle to retain autonomy and to make sustainable returns.

The American information technology sector has long been an engine of innovation and growth, but today a small number of dominant internet platforms use their power to exclude market entrants, to extract monopoly profits, and to gather intimate personal information that they can exploit for their own advantage. Too many small businesses across the economy depend on those platforms and a few online marketplaces for their survival. And too many local newspapers have shuttered or downsized, in part due to the internet platforms' dominance in advertising markets.

Americans are paying too much for prescription drugs and healthcare services—far more than the prices paid in other countries. Hospital consolidation has left many areas, particularly rural communities, with inadequate or more expensive healthcare options. And too often, patent and other laws have been misused to inhibit or delay—for years and even decades—competition from generic drugs and biosimilars, denying Americans access to lower-cost drugs.

In the telecommunications sector, Americans likewise pay too much for broadband, cable television, and other communications services, in part because of a lack of adequate competition. In the financial-services sector, consumers pay steep and often hidden fees because of industry consolidation. Similarly, the global container shipping industry has consolidated into a small number of dominant foreign-owned lines and alliances, which can disadvantage American exporters.

The problem of economic consolidation now spans these sectors and many others, endangering our ability to rebuild and emerge from the coronavirus disease 2019 (COVID–19) pandemic with a vibrant, innovative, and growing economy. Meanwhile, the United States faces new challenges to its economic standing in the world, including unfair competitive pressures from foreign monopolies and firms that are state-owned or state-sponsored, or whose market power is directly supported by foreign governments.

We must act now to reverse these dangerous trends, which constrain the growth and dynamism of our economy, impair the creation of high-quality jobs, and threaten America's economic standing in the world.

This order affirms that it is the policy of my Administration to enforce the antitrust laws to combat the excessive concentration of industry, the abuses of market power, and the harmful effects of monopoly and monopsony—especially as these issues arise in labor markets, agricultural markets, Internet platform industries, healthcare markets (including insurance, hospital, and prescription drug markets), repair markets, and United States markets directly affected by foreign cartel activity.

It is also the policy of my Administration to enforce the antitrust laws to meet the challenges posed by new industries and technologies, including the rise of the dominant Internet platforms, especially as they stem from serial mergers, the acquisition of nascent competitors, the aggregation of data, unfair competition in attention markets, the surveillance of users, and the presence of network effects.

Whereas decades of industry consolidation have often led to excessive market concentration, this order reaffirms that the United States retains the authority to challenge transactions whose previous consummation was in violation of the Sherman Antitrust Act (26 Stat. 209, 15 U.S.C. 1 *et seq.*) (Sherman Act), the Clayton Antitrust Act (Public Law 63–212, 38 Stat. 730, 15 U.S.C. 12 *et seq.*) (Clayton Act), or other laws. *See* 15 U.S.C. 18; *Standard Oil Co. v. United States,* 221 U.S. 1 (1911).

This order reasserts as United States policy that the answer to the rising power of foreign monopolies and cartels is not the tolerance of domestic monopolization, but rather the promotion of competition and innovation by firms small and large, at home and worldwide.

It is also the policy of my Administration to support aggressive legislative reforms that would lower prescription drug prices, including by allowing Medicare to negotiate drug prices, by imposing inflation caps, and through other related reforms. It is further the policy of my Administration to support the enactment of a public health insurance option.

My Administration further reaffirms the policy stated in Executive Order 13725 of April 15, 2016 (Steps to Increase Competition and Better Inform Consumers and Workers to Support Continued Growth of the American Economy), and the Federal Government's commitment to the principles that led to the passage of the Sherman Act, the Clayton Act, the Packers and

Stockyards Act, 1921 (Public Law 67–51, 42 Stat. 159, 7 U.S.C. 181 *et seq.*) (Packers and Stockyards Act), the Celler-Kefauver Antimerger Act (Public Law 81–899, 64 Stat. 1125), the Bank Merger Act (Public Law 86–463, 74 Stat. 129, 12 U.S.C. 1828), and the Telecommunications Act of 1996 (Public Law 104–104, 110 Stat. 56), among others.

Sec. 2. *The Statutory Basis of a Whole-of-Government Competition Policy.* (a) The antitrust laws, including the Sherman Act, the Clayton Act, and the Federal Trade Commission Act (Public Law 63–203, 38 Stat. 717, 15 U.S.C. 41 *et seq.*), are a first line of defense against the monopolization of the American economy.

(b) The antitrust laws reflect an underlying policy favoring competition that transcends those particular enactments. As the Supreme Court has stated, for instance, the Sherman Act ''rests on the premise that the unrestrained interaction of competitive forces will yield the best allocation of our economic resources, the lowest prices, the highest quality and the greatest material progress, while at the same time providing an environment conducive to the preservation of our democratic political and social institutions.'' *Northern Pac. Ry. Co. v. United States,* 356 U.S. 1, 4 (1958).

(c) Consistent with these broader policies, and in addition to the traditional antitrust laws, the Congress has also enacted industry-specific fair competition and anti-monopolization laws that often provide additional protections. Such enactments include the Packers and Stockyards Act, the Federal Alcohol Administration Act (Public Law 74–401, 49 Stat. 977, 27 U.S.C. 201 *et seq.*), the Bank Merger Act, the Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417, 98 Stat. 1585), the Shipping Act of 1984 (Public Law 98–237, 98 Stat. 67, 46 U.S.C. 40101 *et seq.*) (Shipping Act), the ICC Termination Act of 1995 (Public Law 104–88, 109 Stat. 803), the Telecommunications Act of 1996, the Fairness to Contact Lens Consumers Act (Public Law 108–164, 117 Stat. 2024, 15 U.S.C. 7601 *et seq.*), and the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111–203, 124 Stat. 1376) (Dodd-Frank Act).

(d) These statutes independently charge a number of executive departments and agencies (agencies) to protect conditions of fair competition in one or more ways, including by:

(i) policing unfair, deceptive, and abusive business practices;

(ii) resisting consolidation and promoting competition within industries through the independent oversight of mergers, acquisitions, and joint ventures;

(iii) promulgating rules that promote competition, including the market entry of new competitors; and

(iv) promoting market transparency through compelled disclosure of information.

(e) The agencies that administer such or similar authorities include the Department of the Treasury, the Department of Agriculture, the Department of Health and Human Services, the Department of Transportation, the Federal Reserve System, the Federal Trade Commission (FTC), the Securities and Exchange Commission, the Federal Deposit Insurance Corporation, the Federal Communications Commission, the Federal Maritime Commission, the Commodity Futures Trading Commission, the Federal Energy Regulatory Commission, the Consumer Financial Protection Bureau, and the Surface Transportation Board.

(f) Agencies can influence the conditions of competition through their exercise of regulatory authority or through the procurement process. *See* 41 U.S.C. 1705.

(g) This order recognizes that a whole-of-government approach is necessary to address overconcentration, monopolization, and unfair competition in the American economy. Such an approach is supported by existing statutory mandates. Agencies can and should further the polices set forth in section

1 of this order by, among other things, adopting pro-competitive regulations and approaches to procurement and spending, and by rescinding regulations that create unnecessary barriers to entry that stifle competition.

Sec. 3. *Agency Cooperation in Oversight, Investigation, and Remedies.* (a) The Congress frequently has created overlapping agency jurisdiction in the policing of anticompetitive conduct and the oversight of mergers. It is the policy of my Administration that, when agencies have overlapping jurisdiction, they should endeavor to cooperate fully in the exercise of their oversight authority, to benefit from the respective expertise of the agencies and to improve Government efficiency.

(b) Where there is overlapping jurisdiction over particular cases, conduct, transactions, or industries, agencies are encouraged to coordinate their efforts, as appropriate and consistent with applicable law, with respect to:

(i) the investigation of conduct potentially harmful to competition;

(ii) the oversight of proposed mergers, acquisitions, and joint ventures; and

(iii) the design, execution, and oversight of remedies.

(c) The means of cooperation in cases of overlapping jurisdiction should include, as appropriate and consistent with applicable law:

(i) sharing relevant information and industry data;

(ii) in the case of major transactions, soliciting and giving significant consideration to the views of the Attorney General or the Chair of the FTC, as applicable; and

(iii) cooperating with any concurrent Department of Justice or FTC oversight activities under the Sherman Act or Clayton Act.

(d) Nothing in subsections (a) through (c) of this section shall be construed to suggest that the statutory standard applied by an agency, or its independent assessment under that standard, should be displaced or substituted by the judgment of the Attorney General or the Chair of the FTC. When their views are solicited, the Attorney General and the Chair of the FTC are encouraged to provide a response to the agency in time for the agency to consider it in advance of any statutory deadline for agency action.

Sec. 4. *The White House Competition Council.* (a) There is established a White House Competition Council (Council) within the Executive Office of the President.

(b) The Council shall coordinate, promote, and advance Federal Government efforts to address overconcentration, monopolization, and unfair competition in or directly affecting the American economy, including efforts to:

(i) implement the administrative actions identified in this order;

(ii) develop procedures and best practices for agency cooperation and coordination on matters of overlapping jurisdiction, as described in section 3 of this order;

(iii) identify and advance any additional administrative actions necessary to further the policies set forth in section 1 of this order; and

(iv) identify any potential legislative changes necessary to further the policies set forth in section 1 of this order.

(c) The Council shall work across agencies to provide a coordinated response to overconcentration, monopolization, and unfair competition in or directly affecting the American economy. The Council shall also work with each agency to ensure that agency operations are conducted in a manner that promotes fair competition, as appropriate and consistent with applicable law.

(d) The Council shall not discuss any current or anticipated enforcement actions.

(e) The Council shall be led by the Assistant to the President for Economic Policy and Director of the National Economic Council, who shall serve as Chair of the Council.

(f) In addition to the Chair, the Council shall consist of the following members:

(i) the Secretary of the Treasury;

(ii) the Secretary of Defense;

(iii) the Attorney General;

(iv) the Secretary of Agriculture;

(v) the Secretary of Commerce;

(vi) the Secretary of Labor;

(vii) the Secretary of Health and Human Services;

(viii) the Secretary of Transportation;

(ix) the Administrator of the Office of Information and Regulatory Affairs; and

(x) the heads of such other agencies and offices as the Chair may from time to time invite to participate.

(g) The Chair shall invite the participation of the Chair of the FTC, the Chair of the Federal Communications Commission, the Chair of the Federal Maritime Commission, the Director of the Consumer Financial Protection Bureau, and the Chair of the Surface Transportation Board, to the extent consistent with their respective statutory authorities and obligations.

(h) Members of the Council shall designate, not later than 30 days after the date of this order, a senior official within their respective agency or office who shall coordinate with the Council and who shall be responsible for overseeing the agency's or office's efforts to address overconcentration, monopolization, and unfair competition. The Chair may coordinate subgroups consisting exclusively of Council members or their designees, as appropriate.

(i) The Council shall meet on a semi-annual basis unless the Chair determines that a meeting is unnecessary.

(j) Each agency shall bear its own expenses for participating in the Council.

Sec. 5. *Further Agency Responsibilities.* (a) The heads of all agencies shall consider using their authorities to further the policies set forth in section 1 of this order, with particular attention to:

(i) the influence of any of their respective regulations, particularly any licensing regulations, on concentration and competition in the industries under their jurisdiction; and

(ii) the potential for their procurement or other spending to improve the competitiveness of small businesses and businesses with fair labor practices.

(b) The Attorney General, the Chair of the FTC, and the heads of other agencies with authority to enforce the Clayton Act are encouraged to enforce the antitrust laws fairly and vigorously.

(c) To address the consolidation of industry in many markets across the economy, as described in section 1 of this order, the Attorney General and the Chair of the FTC are encouraged to review the horizontal and vertical merger guidelines and consider whether to revise those guidelines.

(d) To avoid the potential for anticompetitive extension of market power beyond the scope of granted patents, and to protect standard-setting processes from abuse, the Attorney General and the Secretary of Commerce are encouraged to consider whether to revise their position on the intersection of the intellectual property and antitrust laws, including by considering whether to revise the Policy Statement on Remedies for Standards-Essential Patents Subject to Voluntary F/RAND Commitments issued jointly by the Department

of Justice, the United States Patent and Trademark Office, and the National Institute of Standards and Technology on December 19, 2019.

(e) To ensure Americans have choices among financial institutions and to guard against excessive market power, the Attorney General, in consultation with the Chairman of the Board of Governors of the Federal Reserve System, the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation, and the Comptroller of the Currency, is encouraged to review current practices and adopt a plan, not later than 180 days after the date of this order, for the revitalization of merger oversight under the Bank Merger Act and the Bank Holding Company Act of 1956 (Public Law 84–511, 70 Stat. 133, 12 U.S.C. 1841 *et seq*.) that is in accordance with the factors enumerated in 12 U.S.C. 1828(c) and 1842(c).

(f) To better protect workers from wage collusion, the Attorney General and the Chair of the FTC are encouraged to consider whether to revise the Antitrust Guidance for Human Resource Professionals of October 2016.

(g) To address agreements that may unduly limit workers' ability to change jobs, the Chair of the FTC is encouraged to consider working with the rest of the Commission to exercise the FTC's statutory rulemaking authority under the Federal Trade Commission Act to curtail the unfair use of non-compete clauses and other clauses or agreements that may unfairly limit worker mobility.

(h) To address persistent and recurrent practices that inhibit competition, the Chair of the FTC, in the Chair's discretion, is also encouraged to consider working with the rest of the Commission to exercise the FTC's statutory rulemaking authority, as appropriate and consistent with applicable law, in areas such as:

(i) unfair data collection and surveillance practices that may damage competition, consumer autonomy, and consumer privacy;

(ii) unfair anticompetitive restrictions on third-party repair or self-repair of items, such as the restrictions imposed by powerful manufacturers that prevent farmers from repairing their own equipment;

(iii) unfair anticompetitive conduct or agreements in the prescription drug industries, such as agreements to delay the market entry of generic drugs or biosimilars;

(iv) unfair competition in major Internet marketplaces;

(v) unfair occupational licensing restrictions;

(vi) unfair tying practices or exclusionary practices in the brokerage or listing of real estate; and

(vii) any other unfair industry-specific practices that substantially inhibit competition.

(i) The Secretary of Agriculture shall:

(i) to address the unfair treatment of farmers and improve conditions of competition in the markets for their products, consider initiating a rulemaking or rulemakings under the Packers and Stockyards Act to strengthen the Department of Agriculture's regulations concerning unfair, unjustly discriminatory, or deceptive practices and undue or unreasonable preferences, advantages, prejudices, or disadvantages, with the purpose of furthering the vigorous implementation of the law established by the Congress in 1921 and fortified by amendments. In such rulemaking or rulemakings, the Secretary of Agriculture shall consider, among other things:

(A) providing clear rules that identify recurrent practices in the livestock, meat, and poultry industries that are unfair, unjustly discriminatory, or deceptive and therefore violate the Packers and Stockyards Act;

(B) reinforcing the long-standing Department of Agriculture interpretation that it is unnecessary under the Packers and Stockyards Act to demonstrate

industry-wide harm to establish a violation of the Act and that the ''unfair, unjustly discriminatory, or deceptive'' treatment of one farmer, the giving to one farmer of an ''undue or unreasonable preference or advantage,'' or the subjection of one farmer to an ''undue or unreasonable prejudice or disadvantage in any respect'' violates the Act;

(C) prohibiting unfair practices related to grower ranking systems—systems in which the poultry companies, contractors, or dealers exercise extraordinary control over numerous inputs that determine the amount farmers are paid and require farmers to assume the risk of factors outside their control, leaving them more economically vulnerable;

(D) updating the appropriate definitions or set of criteria, or application thereof, for undue or unreasonable preferences, advantages, prejudices, or disadvantages under the Packers and Stockyards Act; and

(E) adopting, to the greatest extent possible and as appropriate and consistent with applicable law, appropriate anti-retaliation protections, so that farmers may assert their rights without fear of retribution;

(ii) to ensure consumers have accurate, transparent labels that enable them to choose products made in the United States, consider initiating a rulemaking to define the conditions under which the labeling of meat products can bear voluntary statements indicating that the product is of United States origin, such as ''Product of USA'';

(iii) to ensure that farmers have greater opportunities to access markets and receive a fair return for their products, not later than 180 days after the date of this order, submit a report to the Chair of the White House Competition Council, with a plan to promote competition in the agricultural industries and to support value-added agriculture and alternative food distribution systems through such means as:

(A) the creation or expansion of useful information for farmers, such as model contracts, to lower transaction costs and help farmers negotiate fair deals;

(B) measures to encourage improvements in transparency and standards so that consumers may choose to purchase products that support fair treatment of farmers and agricultural workers and sustainable agricultural practices;

(C) measures to enhance price discovery, increase transparency, and improve the functioning of the cattle and other livestock markets;

(D) enhanced tools, including any new legislative authorities needed, to protect whistleblowers, monitor agricultural markets, and enforce relevant laws;

(E) any investments or other support that could bolster competition within highly concentrated agricultural markets; and

(F) any other means that the Secretary of Agriculture deems appropriate;

(iv) to improve farmers' and smaller food processors' access to retail markets, not later than 300 days after the date of this order, in consultation with the Chair of the FTC, submit a report to the Chair of the White House Competition Council, on the effect of retail concentration and retailers' practices on the conditions of competition in the food industries, including any practices that may violate the Federal Trade Commission Act, the Robinson-Patman Act (Public Law 74–692, 49 Stat. 1526, 15 U.S.C. 13 *et seq.*), or other relevant laws, and on grants, loans, and other support that may enhance access to retail markets by local and regional food enterprises; and

(v) to help ensure that the intellectual property system, while incentivizing innovation, does not also unnecessarily reduce competition in seed and other input markets beyond that reasonably contemplated by the Patent Act (*see* 35 U.S.C. 100 *et seq.* and 7 U.S.C. 2321 *et seq.*), in consultation

with the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, submit a report to the Chair of the White House Competition Council, enumerating and describing any relevant concerns of the Department of Agriculture and strategies for addressing those concerns across intellectual property, antitrust, and other relevant laws.

(j) To protect the vibrancy of the American markets for beer, wine, and spirits, and to improve market access for smaller, independent, and new operations, the Secretary of the Treasury, in consultation with the Attorney General and the Chair of the FTC, not later than 120 days after the date of this order, shall submit a report to the Chair of the White House Competition Council, assessing the current market structure and conditions of competition, including an assessment of any threats to competition and barriers to new entrants, including:

(i) any unlawful trade practices in the beer, wine, and spirits markets, such as certain exclusionary, discriminatory, or anticompetitive distribution practices, that hinder smaller and independent businesses or new entrants from distributing their products;

(ii) patterns of consolidation in production, distribution, or retail beer, wine, and spirits markets; and

(iii) any unnecessary trade practice regulations of matters such as bottle sizes, permitting, or labeling that may unnecessarily inhibit competition by increasing costs without serving any public health, informational, or tax purpose.

(k) To follow up on the foregoing assessment, the Secretary of the Treasury, through the Administrator of the Alcohol and Tobacco Tax and Trade Bureau, shall, not later than 240 days after the date of this order, consider:

(i) initiating a rulemaking to update the Alcohol and Tobacco Tax and Trade Bureau's trade practice regulations;

(ii) rescinding or revising any regulations of the beer, wine, and spirits industries that may unnecessarily inhibit competition; and

(iii) reducing any barriers that impede market access for smaller and independent brewers, winemakers, and distilleries.

(l) To promote competition, lower prices, and a vibrant and innovative telecommunications ecosystem, the Chair of the Federal Communications Commission is encouraged to work with the rest of the Commission, as appropriate and consistent with applicable law, to consider:

(i) adopting through appropriate rulemaking ''Net Neutrality'' rules similar to those previously adopted under title II of the Communications Act of 1934 (Public Law 73–416, 48 Stat. 1064, 47 U.S.C. 151 *et seq.*), as amended by the Telecommunications Act of 1996, in ''Protecting and Promoting the Open internet,'' 80 Fed.Reg. 19738 (Apr. 13, 2015);

(ii) conducting future spectrum auctions under rules that are designed to help avoid excessive concentration of spectrum license holdings in the United States, so as to prevent spectrum stockpiling, warehousing of spectrum by licensees, or the creation of barriers to entry, and to improve the conditions of competition in industries that depend upon radio spectrum, including mobile communications and radio-based broadband services;

(iii) providing support for the continued development and adoption of 5G Open Radio Access Network (O-RAN) protocols and software, continuing to attend meetings of voluntary and consensus-based standards development organizations, so as to promote or encourage a fair and representative standard-setting process, and undertaking any other measures that might promote increased openness, innovation, and competition in the markets for 5G equipment;

(iv) prohibiting unjust or unreasonable early termination fees for end-user communications contracts, enabling consumers to more easily switch providers;

(v) initiating a rulemaking that requires broadband service providers to display a broadband consumer label, such as that as described in the Public Notice of the Commission issued on April 4, 2016 (DA 16–357), so as to give consumers clear, concise, and accurate information regarding provider prices and fees, performance, and network practices;

(vi) initiating a rulemaking to require broadband service providers to regularly report broadband price and subscription rates to the Federal Communications Commission for the purpose of disseminating that information to the public in a useful manner, to improve price transparency and market functioning; and

(vii) initiating a rulemaking to prevent landlords and cable and Internet service providers from inhibiting tenants' choices among providers.

(m) The Secretary of Transportation shall:

(i) to better protect consumers and improve competition, and as appropriate and consistent with applicable law:

(A) not later than 30 days after the date of this order, appoint or reappoint members of the Advisory Committee for Aviation Consumer Protection to ensure fair representation of consumers, State and local interests, airlines, and airports with respect to the evaluation of aviation consumer protection programs and convene a meeting of the Committee as soon as practicable;

(B) promote enhanced transparency and consumer safeguards, as appropriate and consistent with applicable law, including through potential rulemaking, enforcement actions, or guidance documents, with the aims of:

(1) enhancing consumer access to airline flight information so that consumers can more easily find a broader set of available flights, including by new or lesser known airlines; and

(2) ensuring that consumers are not exposed or subject to advertising, marketing, pricing, and charging of ancillary fees that may constitute an unfair or deceptive practice or an unfair method of competition;

(C) not later than 45 days after the date of this order, submit a report to the Chair of the White House Competition Council, on the progress of the Department of Transportation's investigatory and enforcement activities to address the failure of airlines to provide timely refunds for flights cancelled as a result of the COVID–19 pandemic;

(D) not later than 45 days after the date of this order, publish for notice and comment a proposed rule requiring airlines to refund baggage fees when a passenger's luggage is substantially delayed and other ancillary fees when passengers pay for a service that is not provided;

(E) not later than 60 days after the date of this order, start development of proposed amendments to the Department of Transportation's definitions of ''unfair'' and ''deceptive'' in 49 U.S.C. 41712; and

(F) not later than 90 days after the date of this order, consider initiating a rulemaking to ensure that consumers have ancillary fee information, including ''baggage fees,'' ''change fees,'' and ''cancellation fees,'' at the time of ticket purchase;

(ii) to provide consumers with more flight options at better prices and with improved service, and to extend opportunities for competition and market entry as the industry evolves:

(A) not later than 30 days after the date of this order, convene a working group within the Department of Transportation to evaluate the effectiveness of existing commercial aviation programs, consumer protections, and rules of the Federal Aviation Administration;

(B) consult with the Attorney General regarding means of enhancing effective coordination between the Department of Justice and the Department of Transportation to ensure competition in air transportation and the ability of new entrants to gain access; and

(C) consider measures to support airport development and increased capacity and improve airport congestion management, gate access, implementation of airport competition plans pursuant to 49 U.S.C. 47106(f), and ''slot'' administration;

(iii) given the emergence of new aerospace-based transportation technologies, such as low-altitude unmanned aircraft system deliveries, advanced air mobility, and high-altitude long endurance operations, that have great potential for American travelers and consumers, yet also the danger of early monopolization or new air traffic control problems, ensure that the Department of Transportation takes action with respect to these technologies to:

(A) facilitate innovation that fosters United States market leadership and market entry to promote competition and economic opportunity and to resist monopolization, while also ensuring safety, providing security and privacy, protecting the environment, and promoting equity; and

(B) provide vigilant oversight over market participants.

(n) To further competition in the rail industry and to provide accessible remedies for shippers, the Chair of the Surface Transportation Board (Chair) is encouraged to work with the rest of the Board to:

(i) consider commencing or continuing a rulemaking to strengthen regulations pertaining to reciprocal switching agreements pursuant to 49 U.S.C. 11102(c), if the Chair determines such rulemaking to be in the public interest or necessary to provide competitive rail service;

(ii) consider rulemakings pertaining to any other relevant matter of competitive access, including bottleneck rates, interchange commitments, or other matters, consistent with the policies set forth in section 1 of this order;

(iii) to ensure that passenger rail service is not subject to unwarranted delays and interruptions in service due to host railroads' failure to comply with the required preference for passenger rail, vigorously enforce new on-time performance requirements adopted pursuant to the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110–423, 122 Stat. 4907) that will take effect on July 1, 2021, and further the work of the passenger rail working group formed to ensure that the Surface Transportation Board will fully meet its obligations; and

(iv) in the process of determining whether a merger, acquisition, or other transaction involving rail carriers is consistent with the public interest under 49 U.S.C. 11323–25, consider a carrier's fulfillment of its responsibilities under 49 U.S.C. 24308 (relating to Amtrak's statutory rights).

(o) The Chair of the Federal Maritime Commission is encouraged to work with the rest of the Commission to:

(i) vigorously enforce the prohibition of unjust and unreasonable practices in the context of detention and demurrage pursuant to the Shipping Act, as clarified in ''Interpretive Rule on Demurrage and Detention Under the Shipping Act,'' 85 Fef. Reg. 29638 (May 18, 2020);

(ii) request from the National Shipper Advisory Committee recommendations for improving detention and demurrage practices and enforcement of related Shipping Act prohibitions; and

(iii) consider further rulemaking to improve detention and demurrage practices and enforcement of related Shipping Act prohibitions.

(p) The Secretary of Health and Human Services shall:

(i) to promote the wide availability of low-cost hearing aids, not later than 120 days after the date of this order, publish for notice and comment a proposed rule on over-the-counter hearing-aids, as called for by section 709 of the FDA Reauthorization Act of 2017 (Public Law 115–52, 131 Stat. 1005);

(ii) support existing price transparency initiatives for hospitals, other providers, and insurers along with any new price transparency initiatives

or changes made necessary by the No Surprises Act (Public Law 116–260, 134 Stat. 2758) or any other statutes;

(iii) to ensure that Americans can choose health insurance plans that meet their needs and compare plan offerings, implement standardized options in the national Health Insurance Marketplace and any other appropriate mechanisms to improve competition and consumer choice;

(iv) not later than 45 days after the date of this order, submit a report to the Assistant to the President for Domestic Policy and Director of the Domestic Policy Council and to the Chair of the White House Competition Council, with a plan to continue the effort to combat excessive pricing of prescription drugs and enhance domestic pharmaceutical supply chains, to reduce the prices paid by the Federal Government for such drugs, and to address the recurrent problem of price gouging;

(v) to lower the prices of and improve access to prescription drugs and biologics, continue to promote generic drug and biosimilar competition, as contemplated by the Drug Competition Action Plan of 2017 and Biosimilar Action Plan of 2018 of the Food and Drug Administration (FDA), including by:

(A) continuing to clarify and improve the approval framework for generic drugs and biosimilars to make generic drug and biosimilar approval more transparent, efficient, and predictable, including improving and clarifying the standards for interchangeability of biological products;

(B) as authorized by the Advancing Education on Biosimilars Act of 2021 (Public Law 117–8, 135 Stat. 254, 42 U.S.C. 263–1), supporting biosimilar product adoption by providing effective educational materials and communications to improve understanding of biosimilar and interchangeable products among healthcare providers, patients, and caregivers;

(C) to facilitate the development and approval of biosimilar and interchangeable products, continuing to update the FDA's biologics regulations to clarify existing requirements and procedures related to the review and submission of Biologics License Applications by advancing the ''Biologics Regulation Modernization'' rulemaking (RIN 0910–AI14); and

(D) with the Chair of the FTC, identifying and addressing any efforts to impede generic drug and biosimilar competition, including but not limited to false, misleading, or otherwise deceptive statements about generic drug and biosimilar products and their safety or effectiveness;

(vi) to help ensure that the patent system, while incentivizing innovation, does not also unjustifiably delay generic drug and biosimilar competition beyond that reasonably contemplated by applicable law, not later than 45 days after the date of this order, through the Commissioner of Food and Drugs, write a letter to the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office enumerating and describing any relevant concerns of the FDA;

(vii) to support the market entry of lower-cost generic drugs and biosimilars, continue the implementation of the law widely known as the CREATES Act of 2019 (Public Law 116–94, 133 Stat. 3130), by:

(A) promptly issuing Covered Product Authorizations (CPAs) to assist product developers with obtaining brand-drug samples; and

(B) issuing guidance to provide additional information for industry about CPAs; and

(viii) through the Administrator of the Centers for Medicare and Medicaid Services, prepare for Medicare and Medicaid coverage of interchangeable biological products, and for payment models to support increased utilization of generic drugs and biosimilars.

(q) To reduce the cost of covered products to the American consumer without imposing additional risk to public health and safety, the Commissioner of Food and Drugs shall work with States and Indian Tribes that

propose to develop section 804 Importation Programs in accordance with the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173, 117 Stat. 2066), and the FDA's implementing regulations.

(r) The Secretary of Commerce shall:

(i) acting through the Director of the National Institute of Standards and Technology (NIST), consider initiating a rulemaking to require agencies to report to NIST, on an annual basis, their contractors' utilization activities, as reported to the agencies under 35 U.S.C. 202(c)(5);

(ii) acting through the Director of NIST, consistent with the policies set forth in section 1 of this order, consider not finalizing any provisions on march-in rights and product pricing in the proposed rule ''Rights to Federally Funded Inventions and Licensing of Government Owned Inventions,'' 86 Fed. Reg. 35 (Jan. 4, 2021); and

(iii) not later than 1 year after the date of this order, in consultation with the Attorney General and the Chair of the Federal Trade Commission, conduct a study, including by conducting an open and transparent stakeholder consultation process, of the mobile application ecosystem, and submit a report to the Chair of the White House Competition Council, regarding findings and recommendations for improving competition, reducing barriers to entry, and maximizing user benefit with respect to the ecosystem.

(s) The Secretary of Defense shall:

(i) ensure that the Department of Defense's assessment of the economic forces and structures shaping the capacity of the national security innovation base pursuant to section 889(a) and (b) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283, 134 Stat. 3388) is consistent with the policy set forth in section 1 of this order;

(ii) not later than 180 days after the date of this order, submit to the Chair of the White House Competition Council, a review of the state of competition within the defense industrial base, including areas where a lack of competition may be of concern and any recommendations for improving the solicitation process, consistent with the goal of the Competition in Contracting Act of 1984 (Public Law 98–369, 98 Stat. 1175); and

(iii) not later than 180 days after the date of this order, submit a report to the Chair of the White House Competition Council, on a plan for avoiding contract terms in procurement agreements that make it challenging or impossible for the Department of Defense or service members to repair their own equipment, particularly in the field.

(t) The Director of the Consumer Financial Protection Bureau, consistent with the pro-competition objectives stated in section 1021 of the Dodd-Frank Act, is encouraged to consider:

(i) commencing or continuing a rulemaking under section 1033 of the Dodd-Frank Act to facilitate the portability of consumer financial transaction data so consumers can more easily switch financial institutions and use new, innovative financial products; and

(ii) enforcing the prohibition on unfair, deceptive, or abusive acts or practices in consumer financial products or services pursuant to section 1031 of the Dodd-Frank Act so as to ensure that actors engaged in unlawful activities do not distort the proper functioning of the competitive process or obtain an unfair advantage over competitors who follow the law.

(u) The Director of the Office of Management and Budget, through the Administrator of the Office of Information and Regulatory Affairs, shall incorporate into its recommendations for modernizing and improving regulatory review required by my Memorandum of January 20, 2021 (Modernizing Regulatory Review), the policies set forth in section 1 of this order, including consideration of whether the effects on competition and the potential for creation of barriers to entry should be included in regulatory impact analyses.

(v) The Secretary of the Treasury shall:

(i) direct the Office of Economic Policy, in consultation with the Attorney General, the Secretary of Labor, and the Chair of the FTC, to submit a report to the Chair of the White House Competition Council, not later than 180 days after the date of this order, on the effects of lack of competition on labor markets; and

(ii) submit a report to the Chair of the White House Competition Council, not later than 270 days after the date of this order, assessing the effects on competition of large technology firms' and other non-bank companies' entry into consumer finance markets.

Sec. 6. *General Provisions.* (a) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

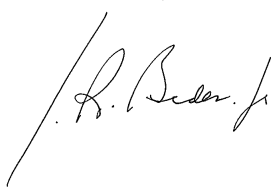
(b) Where not already specified, independent agencies are encouraged to comply with the requirements of this order.

(c) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
July 9, 2021.

[FR Doc. 2021–15069
Filed 7–13–21; 8:45 am]
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Rules and Regulations

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DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE–2017–BT–STD–0032]

RIN 1904–AE07

Energy Conservation Program: Energy Conservation Standards for Evaporatively-Cooled Commercial Package Air Conditioners and Water-Cooled Commercial Package Air Conditioners

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final determination.

SUMMARY: The Energy Policy and Conservation Act (''EPCA''), as amended, prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including evaporatively-cooled commercial package air conditioners and water-cooled commercial package air conditioners (referred to as evaporatively-cooled commercial unitary air conditioners (''ECUACs'') and water-cooled commercial unitary air conditioners (''WCUACs'') in this document). EPCA also requires the U.S. Department of Energy (''DOE'') to periodically determine whether more stringent, amended standards would result in significant additional conservation of energy, be technologically feasible, and be economically justified. In this final determination, DOE has determined that more stringent standards for small (cooling capacity less than 135,000 Btu/h), large (cooling capacity greater than or equal to 135,000 and less than 240,000 Btu/h), and very large (cooling capacity greater than or equal to 240,000 and less than 760,000 Btu/h) ECUACs and WCUACs would not result in significant additional conservation of energy, and thus has determined that the standards for ECUACs and WCUACs do not need to be amended.

DATES: The effective date of this final determination is July 14, 2021.

ADDRESSES: The docket for this rulemaking, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *https://www.regulations.gov.* All documents in the docket are listed in the *https://www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at *https://www.regulations.gov/docket?D=EERE-2017-BT-STD-0032.* The docket web page contains instructions on how to access all documents, including public comments, in the docket.

For further information on how to review the docket, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Catherine Rivest, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW., Washington, DC, 20585–0121. Telephone: (202) 586–7335. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Ms. Linda Field, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–3440. Email: *Linda.Field@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Synopsis of the Final Determination

Title III, Part C [1] of EPCA [2] established the Energy Conservation Program for Certain Industrial Equipment, (42 U.S.C. 6311–6317, as codified). This equipment includes ECUACs and WCUACs, the subject of this final determination.

DOE is issuing this final determination pursuant to the EPCA requirement that not later than 6 years after issuance of any final rule establishing or amending an energy conservation standard for covered equipment, DOE must publish either a notice of determination that standards for the equipment do not need to be amended, or a notice of proposed rulemaking (''NOPR'') including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6316(a)(6)(C)(i))

For this final determination, DOE analyzed the ECUACs and WCUACs subject to the standards found at title 10 of the Code of Federal Regulations (''CFR'') part 431. *See* 10 CFR 431.97. DOE first analyzed the potential for energy savings of more efficient ECUACs and WCUACs. Based on this analysis, as summarized in section IV of this document, DOE has determined that there is not clear and convincing evidence that amended standards would result in significant additional conservation of energy. (42 U.S.C. 6313(a)(6)(A)(ii)) Therefore, DOE has determined that the current standards

[1] For editorial reasons, upon codification in the U.S. Code, Part C was re-designated Part A–1.

[2] All references to EPCA in this document refer to the statute as amended through the Consolidated Appropriations Act, 2021, Public Law 116–260 (Dec. 27, 2020).

for ECUACs and WCUACs do not need to be amended.

II. Introduction

The following section briefly discusses the statutory authority underlying this final determination, as well as some of the relevant historical background related to the establishment of standards for ECUACs and WCUACs.

A. Authority

EPCA authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. Title III, Part C of EPCA, added by Public Law 95–619, Title IV, 441(a) (42 U.S.C. 6311–6317, as codified), established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency. This includes the ECUACs and WCUACs that are the subject of this final determination. (42 U.S.C. 6311(1)(B)–(D))

The energy conservation program under EPCA consists essentially of four parts: (1) Testing, (2) labeling, (3) the establishment of Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA specifically include definitions (42 U.S.C. 6311), energy conservation standards (42 U.S.C. 6313), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), and the authority to require information and reports from manufacturers (42 U.S.C. 6316).

Federal energy conservation requirements for covered equipment established under EPCA generally supersede state laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6316(a) and (b); 42 U.S.C. 6297) DOE may, however, grant waivers of Federal preemption in limited instances for particular state laws or regulations, in accordance with the procedures and other provisions set forth under EPCA. (See 42 U.S.C. 6316(b)(2)(D) applying the preemption waiver provisions of 42 U.S.C. 6297).

EPCA contains mandatory energy conservation standards for commercial heating, air-conditioning, and water-heating equipment. (42 U.S.C. 6313(a)) Specifically, the statute sets standards for small, large, and very large commercial package air conditioning and heating equipment, packaged terminal air conditioners (''PTACs'') and packaged terminal heat pumps (''PTHPs''), warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks. (*Id.*) In doing so, EPCA established Federal energy conservation standards that generally correspond to the levels in American Society of Heating, Refrigerating, and Air-Conditioning Engineers (''ASHRAE'') Standard 90.1, ''Energy Standard for Buildings Except Low-Rise Residential Buildings,'' in effect on October 24, 1992 (*i.e.,* ASHRAE Standard 90.1–1989). ECUACs and WCUACs are covered under EPCA's definition of commercial package air conditioning and heating equipment. (42 U.S.C. 6311(8)) EPCA established initial standards for ECUACs and WCUACs with cooling capacity less than 240,000 Btu/h. (42 U.S.C. 6313(a))

If ASHRAE Standard 90.1 is amended with respect to the standard levels or design requirements applicable under that standard for certain commercial equipment, including ECUACs and WCUACs, not later than 180 days after the amendment of the standard, DOE must publish in the **Federal Register** for public comment an analysis of the energy savings potential of amended energy efficiency standards. (42 U.S.C. 6313(a)(6)(A)(i)) Within certain exceptions, DOE must adopt amended energy conservation standards at the new efficiency level in ASHRAE Standard 90.1, unless DOE determines that there is clear and convincing evidence to support a determination that the adoption of a more stringent efficiency level as a uniform national standard would produce significant additional energy savings and be technologically feasible and economically justified. (42 U.S.C. 6313(a)(6)(A)(ii))

To determine whether a standard is economically justified, EPCA requires that DOE determine whether the benefits of the standard exceed its burdens by considering, to the greatest extent practicable, the following seven factors:

(1) The economic impact of the standard on the manufacturers and consumers of the affected products;

(2) The savings in operating costs throughout the estimated average life of the product compared to any increases in the initial cost, or maintenance expenses;

(3) The total projected amount of energy and water (if applicable) savings likely to result directly from the standard;

(4) Any lessening of the utility or the performance of the products likely to result from the standard;

(5) The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the standard;

(6) The need for national energy and water conservation; and

(7) Other factors the Secretary of Energy (''Secretary'') considers relevant.

(42 U.S.C. 6313(a)(6)(B)(ii)(I)–(VII))

If DOE decides to adopt, as a uniform national standard, the efficiency levels specified in the amended ASHRAE Standard 90.1, DOE must establish such standard not later than 18 months after publication of the amended industry standard. (42 U.S.C. 6313(a)(6)(A)(ii)(I)) However, if DOE determines, supported by clear and convincing evidence, that a more stringent uniform national standard would result in significant additional conservation of energy and is technologically feasible and economically justified, then DOE must establish the more stringent standard not later than 30 months after publication of the amended ASHRAE Standard 90.1. (42 U.S.C. 6313(a)(6)(A)(ii)(II) and (B)(i))

EPCA also requires that every six years DOE evaluate the energy conservation standards for certain commercial equipment, including ECUACs and WCUACs, and publish either a notice of determination that the standards do not need to be amended, or a NOPR that includes new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6313(a)(6)(C)(i)) EPCA further provides that, not later than three years after the issuance of a final determination to not amend standards, DOE must publish either a notice of determination that standards for the product do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6313(a)(6)(C)(iii)(II)) DOE must make the analysis on which the determination is based publicly available and provide an opportunity for written comment. (42 U.S.C. 6313(a)(6)(C)(ii)) Further, a determination that more stringent standards would (1) result in significant additional conservation of energy, (2) be technologically feasible and (3) economically justified must be supported by clear and convincing evidence. (42 U.S.C. 6313(a)(6)(C)(i); 42 U.S.C. 6313(a)(6)(A).) A determination that amended energy conservation standards are not needed must be based on the same considerations as if it were adopting a standard that is more stringent than an amendment to ASHRAE Standard 90.1. (42 U.S.C. 6313(a)(6)(C)(i)(I); 42 U.S.C. 6313(a)(6)(B))

DOE is publishing this final determination pursuant to the six-year review required by EPCA, having determined that amended standards for ECUACs and WCUACs would not result in significant additional conservation of energy, be technologically feasible, and be economically justified.

B. Background

1. Current Standards

The current energy conservation standards for ECUACs and WCUACs are located in Table 1 of 10 CFR 431.97. These standards and their compliance dates are presented in Table II.1 of this document. The current efficiency metric used for ECUACs and WCUACs is the energy efficiency ratio (''EER'').

TABLE II.1—FEDERAL ENERGY CONSERVATION STANDARDS FOR WATER-COOLED AND EVAPORATIVELY-COOLED COMMERCIAL PACKAGE AIR-CONDITIONING AND HEATING EQUIPMENT

Equipment type	Cooling capacity (Btu/h)	Heating type	Minimum EER	Compliance date
Small Water-Cooled	<65,000	All	12.1	October 29, 2003.
Small Water-Cooled	≥65,000 and <135,000	No Heating or Electric Resistance Heating.	12.1	June 1, 2013.
		All Other Types of Heating	11.9	June 1, 2013.
Large Water-Cooled	≥135,000 and <240,000	No Heating or Electric Resistance Heating.	12.5	June 1, 2014.
		All Other Types of Heating	12.3	June 1, 2014.
Very Large Water-Cooled	≥240,000 and <760,000	No Heating or Electric Resistance Heating.	12.4	June 1, 2014.
		All Other Types of Heating	12.2	June 1, 2014.
Small Evaporatively-Cooled	<65,000	All	12.1	October 29, 2003.
Small Evaporatively-Cooled	≥65,000 and <135,000	No Heating or Electric Resistance Heating.	12.1	June 1, 2013.
		All Other Types of Heating	11.9	June 1, 2013.
Large Evaporatively-Cooled	≥135,000 and <240,000	No Heating or Electric Resistance Heating.	12.0	June 1, 2014.
		All Other Types of Heating	11.8	June 1, 2014.
Very Large Evaporatively-Cooled	≥240,000 and <760,000	No Heating or Electric Resistance Heating.	11.9	June 1, 2014.
		All Other Types of Heating	11.7	June 1, 2014.

2. Rulemaking History

On October 29, 2010, ASHRAE updated ASHRAE Standard 90.1 with respect to small, large, and very large commercial package air conditioning and heating equipment (*i.e.,* ASHRAE 90.1–2010). With regard to ECUACs and WCUACs, ASHRAE 90.1–2010 updated efficiency levels for certain small (*i.e.,* cooling capacity greater than or equal to 65,000 Btu/h and less than 135,000 Btu/h), large, and very large ECUACs and WCUACs. ASHRAE 90.1–2010 also updated its referenced test procedures for this equipment. ASHRAE 90.1–2010 did not amend the efficiency levels for certain small (*i.e.,* cooling capacity less than 65,000 Btu/h) WCUACs and ECUACs but did amend the test procedure for this equipment.

In a final rule published May 16, 2012, DOE amended the standards for ECUACs and WCUACs by adopting EER levels for this equipment established in ASHRAE 90.1–2010. 77 FR 28928 (''May 2012 final rule''). For certain small (*i.e.,* cooling capacity greater than or equal to 65,000 Btu/h and less than 135,000 Btu/h), large, and very large WCUACs and ECUACs, DOE estimated the energy savings potential of standards at the max-tech [3] efficiency levels over those efficiency levels in ASHRAE 90.1–2010 (*i.e.,* energy savings estimates for max-tech levels do not include the energy savings from increasing the Federal standard at the time to the level found in ASHRAE 90.1–2010). 76 FR 25622, 25644–25646 (May 5, 2011). Based on an analysis of two different shipment scenarios (shipments based on historical trends and constant shipments fixed to 2009 shipment levels), DOE estimated that efficiency standards at the max-tech level would result in additional energy savings of between 0.0061 to 0.0102 quads primary energy savings for the six classes of small, large, and very large WCUACs analyzed (76 FR 25622, 25644–25645), representing approximately 4.9 percent to 5.5 percent of estimated WCUAC energy use during the analysis period. DOE estimated that efficiency standards at the max-tech level would result in additional energy savings of between 0.0013 to 0.0021 quads primary energy for the two classes of very large ECUACs analyzed (76 FR 25622, 25646), representing approximately 3.7 percent to 3.9 percent of estimated ECUAC energy use during the analysis period. DOE did not examine certain small WCUACs and ECUACs (*i.e.,* equipment less than 65,000 Btu/h cooling capacity) because the levels in ASHRAE 90.1–2010 for such equipment were not amended. 76 FR 25622, 25631. Additionally, DOE did not assess potential energy savings for ECUACs with cooling capacity greater than or equal to 65,000 Btu/h but less than 240,000 Btu/h because it did not find any equipment in this capacity range in the U.S. market. *Id.*

Based on its analysis and the review of the market, DOE determined that it did not have ''clear and convincing evidence'' that significant additional conservation of energy would result from adoption of more stringent standard levels than those in ASHRAE 90.1–2010 for ECUACs and WCUACs. 77 FR 28928, 28979. DOE did not conduct an economic analysis of standards more stringent than the ASHRAE 90.1–2010 levels for ECUACs and WCUACs because of the conclusion that more stringent standards would result in minimal energy savings. *Id.*

Since ASHRAE 90.1–2010 was published, ASHRAE 90.1 has undergone three revisions. On October 9, 2013, ASHRAE published ASHRAE 90.1–2013; on October 26, 2016, ASHRAE published ASHRAE 90.1–2016; and on October 24, 2019, ASHRAE published ASHRAE 90.1–2019. In none of these

[3] The max-tech level represented the highest efficiency level of equipment available on the market at the time of the analysis.

publications did ASHRAE amend minimum EER levels for small, large, and very large WCUACs or ECUACs; therefore, DOE was not prompted to examine amended standards for this equipment under 42 U.S.C. 6313(a)(6)(A). As a result, the current federal standards for ECUACs and WCUACs are those set forth in the May 2012 final rule and codified in Table 1 of 10 CFR 431.97.

On July 29, 2019, DOE published a request for information (''RFI'') to solicit information and data from interested parties to consider amendments to the DOE energy conservation standards for ECUACs and WCUACs. 84 FR 36480 (''July 2019 ECS RFI'').

On September 15, 2020 DOE published a notice of proposed determination (''NOPD'') with the tentative determination that energy conservation standards for ECUACs and WCUACs do not need to be amended (''September 2020 NOPD''). 85 FR 57149. The comment period for this notice closed on November 30, 2020. On October 1, 2020, DOE held a public webinar [4] to discuss the analysis and results from the September 2020 NOPD.

DOE received several comments from interested parties in response to the publication of the September 2020 NOPD. Table II.2 lists the commenters, their abbreviated names used throughout this final determination, and organization type. Discussion of the relevant comments provided by these organizations and DOE's responses are provided in the appropriate sections of this document.

TABLE II.2—INTERESTED PARTIES THAT PROVIDED WRITTEN AND ORAL COMMENTS REGARDING THE SEPTEMBER 2020 NOPD

Name	Abbreviation	Commenter type
United CoolAir	UCA	Manufacturer.
Institute for Policy Integrity at NYU School of Law	IPI	Academic Institution.
California Investor Owned Utilities (Pacific Gas and Electric Company, San Diego Gas and Electric, and California Edison).	CA IOUs	Utilities.
Trane Technologies	Trane	Manufacturer.
Daikin	Daikin	Manufacturer.

A parenthetical reference at the end of a comment, quotation or paraphrase provides the location of the item in the public record.[5]

III. Discussion and Rationale

DOE developed the conclusions in this notice after considering oral and written comments, data, and information from interested parties that represent a variety of interests. This section addresses the analyses DOE performed for this final determination regarding ECUACs and WCUACs. Separate subsections address each component of DOE's analyses and responses to relevant comments received regarding the September 2020 NOPD.

A. General Comments

In response to the September 2020 NOPD, DOE received several general comments. CA IOUs supported DOE's initial determination to maintain the current standards, stating that the market for this equipment is extremely small. (CA IOUs, No. 13 at p. 2) UCA stated that if DOE is correct in its assumed decline of shipments, then there is no need for an increase in efficiency at this time. (UCA, No. 11 at p. 1)

As discussed below, DOE has determined that it lacks clear and convincing evidence that amended standards for ECUACs and WCUACs would result in significant additional energy savings and be technologically feasible and economically justified.

DOE received comments from UCA and CA IOUs regarding the test procedures for ECUACs and WCUACs. (UCA, No. 11 at p. 1; CA IOUs, No. 13 at p. 2) UCA stated that several third party test facilities are limited in the physical size and capacity limits they can test; therefore, they stated that certain UCA models cannot be tested at these facilities. (UCA, No. 11 at p. 1) CA IOUs encouraged DOE to expedite work on an updated test standard for all CUACs. (CA IOUs, No. 13 at p. 2) Specifically, CA IOUs commented that the Appliance Standards and Rulemaking Federal Advisory Committee (''ASRAC''), Commercial Package Air Conditioners and Commercial Warm Air Furnaces Working Group unanimously agreed that a new test procedure for CUACs, which should include a more representative evaluation of indoor fan power consumption, should be completed no later than January 1, 2019. *Id.*

The September 2020 NOPD sought comment on DOE's determination of whether the energy conservation standards for ECUACs and WCUACs should be amended. Consideration of amendments to the test procedures are not within the scope of this determination. DOE will consider comments received regarding ECUAC and WCUAC test procedures in the ongoing evaluation of the CUAC test procedure. *See* 82 FR 34427 (July 25, 2017).

B. Energy Efficiency Metric

The current energy efficiency descriptor for the ECUAC and WCUAC Federal standards is EER. 10 CFR 431.97. ASHRAE 90.1 has specified both EER and integrated energy efficiency ratio (''IEER'') minimum efficiency levels since 2010.

The EER metric represents the efficiency of the equipment operating at full load. The IEER metric factors in the efficiency of operating at part loads of 75 percent, 50 percent, and 25 percent of capacity as well as the efficiency at full load by weighting the full- and part-load efficiencies based on the average amount of time operating at each load point. Additionally, IEER incorporates reduced condenser temperatures (*i.e.,* reduced entering water temperature for WCUACs and reduced outdoor air dry-bulb and wet-bulb temperatures for ECUACs) to reflect the representative ambient conditions for part-load operation in the field. Table III.1 shows the IEER test conditions for ECUACs and WCUACs specified in AHRI Standard 340/360–2019, ''Performance Rating of Commercial and Industrial Unitary Air-conditioning and Heat

[4] The public webinar presentation and transcript can both be found at *http://www.regulations.gov* under docket number EERE–2017–BT–STD–0032.

[5] The parenthetical reference provides a reference for information located in the docket for this determination. (Docket No. EERE–2017–BT–STD–0032, which is maintained at *https://www.regulations.gov/docket?D=EERE-2017-BT-STD-0032*). The references are arranged as follows: (Commenter name, comment docket ID number, page of that document).

Pump Equipment'' (''AHRI 340/360–2019'').[6]

TABLE III.1 IEER TEST CONDITIONS FOR WATER-COOLED AND EVAPORATIVELY-COOLED AIR CONDITIONERS FROM AHRI 340/360–2019

Percent load	Water-cooled	Evaporatively-cooled		
	Entering water temperature (°F)	Entering air dry-bulb temperature [7] (°F)	Entering air wet-bulb temperature (°F)	Makeup water temperature (°F)
100	85.0	95.0	75.0	85.0
75	73.5	81.5	66.2	81.5
50	62.0	68.0	57.5	68.0
25	55.0	65.0	52.8	65.0

The following equation shows the weighting factors for each testing condition.

IIIIIIII = (0.020 • A) + (0.617 • B) + (0.238 • C) + (0.125 • D)

Where (see Table III.1 for condenser temperature for all four test points):

A = EER, Btu/W•h, at 100 percent capacity at standard rating conditions

B = EER, Btu/W•h, at 75 percent capacity and reduced condenser temperature

C = EER, Btu/W•h, at 50 percent capacity and reduced condenser temperature

D = EER, Btu/W•h, at 25 percent capacity and reduced condenser temperature.

The intent of this weighted average across a range of condenser temperatures is to produce an IEER rating that is more representative of outdoor conditions that air conditioners face for much of the year, rather than just the peak temperature experienced in most climates for only a small minority of operating hours.

In the September 2020 NOPD, DOE proposed to maintain standards for ECUACs and WCUACs in terms of EER because the current IEER metric may not be representative for ECUACs and WCUACs and compliance with IEER would impose additional testing and certification burden on a small market. 85 FR 57149, 57161. DOE initially determined that for ECUACs, the weighting factors for IEER may not be representative of typical applications.

ECUACs may be disproportionately marketed and sold in relatively hot and dry climates where there is a larger efficiency benefit to using evaporative condenser cooling. 85 FR 57149, 57160. The IEER equation assigns a weighting factor of just 2 percent for the full-load test point, so almost all of the IEER rating for ECUACs would reflect performance at outdoor air temperatures which is cooler than what would typically be experienced in the hot and dry climates where this equipment is installed. For ECUACs with cooling capacity less than 65,000 Btu/h DOE's preliminary analysis suggested that these units are primarily marketed for residential applications, whereas the IEER metric was developed for commercial applications by analyzing air conditioner energy use in commercial buildings. *Id.* For WCUACs, it is not certain whether the IEER weighting factors appropriately reflect the average use of WCUACs given that IEER was developed based on an analysis of air-cooled CUACs (''ACUACs''). *Id.*

Additionally, IEER requires at least four tests whereas EER requires a single test. Examining the models listed in the CCMS database, DOE found that many models did not have any online product literature demonstrating that they are rated with IEER, suggesting that many WCUAC and ECUAC models would need to be retested in order to comply with Federal IEER standards. 85 FR 57149, 57161.

In response to the September 2020 NOPD, DOE received several comments in support of its proposal to maintain standards in terms of the EER metric. UCA supported DOE's proposal to maintain the EER metric for WCUACs, stating that they disagreed with using IEER for certain WCUACs installed indoors within mechanical rooms because these units typically see constant water temperatures year-round. (UCA, No. 11 at p. 1) CA IOUs supported maintaining EER and not adopting IEER for ECUACs until the test procedure has been updated and DOE has evaluated the appropriate condenser entering air dry-bulb and wet-bulb temperatures for the climates in which ECUACs are typically installed. (CA IOUs, No. 13 at p. 2)

Regarding WCUACs, CA IOUs stated that if DOE were to adopt IEER, DOE should complete the test procedure rulemaking first and consider aligning the temperature test points and weighting factors with those of water-cooled variable refrigerant flow (''VRF'') equipment. (CA IOUs, No. 13 at p. 2; Public Webinar Transcript,[4] No. 10 at p. 21).

For the reasons provided previously and presented in the September 2020 NOPD, DOE is maintaining federal standards for ECUACs and WCUACs in terms of EER.

DOE's analysis in support of the final determination is based on an evaluation of ECUACs and WCUACs in terms of EER.

C. Market Analysis

DOE develops information in the market analysis that provides an overall picture of the market for the equipment concerned. For this final determination, DOE conducted a review of the current market for ECUACs and WCUACs, including equipment literature, the AHRI Directory of Certified Product Performance (''AHRI Directory''),[8] and the DOE Compliance Certification Management System (''CCMS'') database.[9] DOE also considered market data and stakeholder comments received in response to the July 2019 ECS RFI and the September 2020 NOPD, the analysis performed in the previous standards rulemaking for ECUACs and WCUACs, and the energy savings

[6] AHRI 340/360–2019 is the industry test procedure referenced in ASHRAE 90.1–2019 for testing CUACs with cooling capacity greater than or equal to 65,000 Btu/h.

[7] UCA pointed out a typographical error in Table III.6 in the September 2020 NOPD (*see* 85 FR 57149, 57159), in which the entering air dry-bulb temperature should be a test condition for ECUACs and not WCUACs. (UCA, No. 11 at p. 1) This has been corrected in Table III.1 of this final determination.

[8] The AHRI Directory for unitary large equipment can be found at *https://www.ahridirectory.org/Search/SearchHome.* AHRI's certification program does not currently include ECUACs of any cooling capacities or WCUACs with cooling capacity greater than 250,000 Btu/h.

[9] Data from the DOE CCMS database used in the September 2020 NOPD and this final determination was accessed on December 16, 2019. This database can be found at *http://www.regulations.doe.gov/certification-data/.*

potential for amended standards determined in the May 2012 final rule.

1. Shipments Estimates

DOE uses projections of annual product shipments to calculate the national impacts of potential amended energy conservation standards on energy use.[10] The shipments model takes an accounting approach in tracking market shares of each product class and the vintage of units in the stock.

The analysis conducted for the September 2020 NOPD was based on the same model specification used for the May 2012 final rule and incorporated additional shipments data provided by AHRI in response to the July 2019 ECS RFI. 85 FR 57149, 57155–57156. Based on the shipments data, the DOE September 2020 NOPD analysis indicated declining future shipments for WCUACs and ECUACs with cooling capacity less than 65,000 Btu/h.

Table III.2 presents the historical shipments for WCUACs from the May 2012 final rule (1984–2009) along with historical shipments in the following years as provided by AHRI (2010–2018). As shown in Table III.2 for the small and large WCUACs, shipments starting in 2009 are lower than in prior years. The very large WCUAC shipments fell in the years immediately following 2008, and while the shipments have rebounded, they did not rebound to the highest shipment levels seen previously.

TABLE III.2—HISTORICAL SHIPMENTS DATA FOR WCUACS

Year*	Small AC water-cooled (<64.9 kBtu/h)	Small AC water-cooled (65 to 134.9 kBtu/h)	Large AC water-cooled (135 to 249 kBtu/h)	Very large AC water-cooled (≥250 kBtu/h)
1989	.....	1437	793	1622
1990	.....	1503	779	1211
1991	.....	1107	621	908
1992	.....	1068	537	720
1993	.....	985	520	668
1994	.....	922	504	815
1995	.....	1121	493	805
1996	.....	1217	652	1020
1997	.....	989	522	1216
1998	.....	795	623	1886
1999	.....	874	477	898
2000	.....	1478	1621	1170
2001	.....	606	409	762
2002	.....	502	355	1227
2003	.....	390	287	740
2004	.....	447	291	711
2005	.....	177	188	861
2006	.....	316	278	1231
2007	.....	359	317	1231
2008	.....	282	311	1390
2009	91	152	182	585
2010	119	139	186	531
2011	84	209	180	609
2012	95	230	137	624
2013	59	198	164	751
2014	54	216	114	829
2015	52	137	147	770
2016	44	105	154	946
2017	45	62	128	985
2018	39	106	108	844

* Data for 1989–2009 from the May 2012 Final Rule. This data does not include WCUACs with cooling capacity less than 65,000 Btu/h because this class was not included in that rulemaking. Data for 2009–2018 provided by AHRI in response to the July 2019 ECS RFI.

DOE developed two shipment projections for the September 2020 NOPD analysis; one based on historical trends and one that held shipments constant at the 2018 shipment level (referred to as ''2019 trend'' and ''2019 constant'', respectively). 85 FR 57149, 57155–57156. The 2019 trend and 2019 constant projections are compared to projections from the May 2012 final rule that were based on the historical trends and fixed at the level of the 2009 shipments (referred to as ''2012 trend'' and ''2012 constant'', respectively). This comparison is shown in Table III.3 of this document.

DOE was unable to identify shipments data for the ECUAC equipment classes and none were provided by the stakeholders. For the September 2020 NOPD analysis, shipment projections were developed by scaling the WCUAC shipment projections using a ratio of unique model counts for each equipment class. 85 FR 57149, 57155. For the small (cooling capacity less than 65,000 Btu/h) ECUAC class of products, the shipment projection was further adjusted by a factor of 0.5 to better reflect the approximate size of the market in the mid-2000s.[11] *Id.*

WCUACs are typically sold as part of a large project (*i.e.,* a multi-tenant, multi-story office building). To account for shipments being a function of large office construction, DOE also developed a third projection for the very large WCUAC equipment class, using a regression analysis with historical data

[10] DOE uses data on manufacturing shipments as a proxy for national sales, as aggregate data on sales are lacking. In general, one would expect a close correspondence between shipments and sales.

[11] Pacific Gas and Electric Company; Emerging Technologies Program, Application Assessment Report # 0605. Evaluation of the Freus Residential Evaporative Condenser System in PG&E Service Territory. *https://www.etcc-ca.com/sites/default/files/OLD/images/stories/pdf/ETCC_Report_464.pdf* accessed December 18, 2019.

and projections of large office existing floor space and large office additions as the variables (referred to as ''2019 regression'' in Table III.3). 85 FR 57149, 57156.

TABLE III.3—COMPARISON OF SHIPMENT PROJECTIONS FOR WCUACS AND ECUACS BY EQUIPMENT CLASS

	2018	2020	2025	2030	2035	2040	2045
Small WCUAC, <65,000 Btu/h							
2012 trend	.....	.....	.....	.....	.....	.....	.....
2012 constant (=2009)	.....	.....	.....	.....	.....	.....	.....
2019 trend	39	33	18	10	6	3	2
2019 constant (=2018)	39	39	39	39	39	39	39
Small WCUAC, ≥65,000 and <135,000 Btu/h							
2012 trend	93	76	46	28	17	10	6
2012 constant (=2009)	152	152	152	152	152	152	152
2019 trend	106	87	52	32	19	11	7
2019 constant (=2018)	106	106	106	106	106	106	106
Large WCUAC, ≥135,000 and <240,000 Btu/h							
2012 trend	132	117	87	64	47	35	26
2012 constant (=2009)	182	182	182	182	182	182	182
2019 trend	108	110	78	55	39	28	20
2019 constant (=2018)	108	108	108	108	108	108	108
Very Large WCUAC, ≥240,000 and ≤760,000 Btu/h							
2012 trend	953	944	923	903	882	861	840
2012 constant (=2009)	585	585	585	585	585	585	585
2019 trend	844	777	721	664	608	551	495
2019 constant (=2018)	844	844	844	844	844	844	844
2019 regression	844	1000	929	927	865	844	828
Small ECUAC, <65,000 Btu/h							
2012 trend	.....	.....	.....	.....	.....	.....	.....
2012 constant (=2009)	.....	.....	.....	.....	.....	.....	.....
2019 trend	156	132	72	40	24	12	8
2019 constant (=2018)	156	156	156	156	156	156	156
Very Large ECUAC, ≥240,000 and ≤760,000 Btu/h							
2012 trend	245	243	238	232	227	221	216
2012 constant (=2009)	150	150	150	150	150	150	150
2019 trend	14	13	12	11	10	9	9
2019 constant (=2018)	14	14	14	14	14	14	14
2019 regression	14	17	16	16	14	14	14

In the May 2012 final rule, DOE did not analyze small ECUACs and WCUACs with cooling capacity less than 65,000 Btu/h. 77 FR 28927, 28934–28937. For the July 2019 ECS RFI, DOE identified a single manufacturer of ECUACs in this capacity range, and the models offered are single-phase equipment and appear to be predominantly marketed for residential applications in regions of the United States with hot and dry climates, suggesting that there are few if any shipments in other regions of the United States. 84 FR 36480, 36485. DOE identified only two distinct product lines of WCUACs with cooling capacity less than 65,000 Btu/h, and DOE's examination of manufacturer literature for these WCUACs suggested that these models do not comprise a significant share of the market for air conditioners in residential or commercial applications. *Id.*

The projected trends from the May 2012 final rule and those based on the updated data both generally show declines in shipments for small (≥65,000 and <135,000 Btu/h), large and very large WCUACs, and very large ECUACs. The shipment levels under the 2019 constant projections are lower than the 2012 constant projections for small (≥65,000 and <135,000 Btu/h) and large WCUACs and very large ECUACs. The 2019 constant projections for very large WCUACs are higher than the 2012 constant projections (but lower than the 2012 trend projections). The 2019 regression projections for very large WCUACs and ECUACs show a more stable level of shipments over the analysis period than the 2019 trend models, but are lower than the 2012 trend projection.

Given that DOE did not analyze ECUACs and WCUACs with cooling capacity less than 65,000 Btu/h for the May 2012 final rule, no comparisons to the current projections are possible. The current trended shipments projections for the small (cooling capacity less than 65,000 Btu/h) equipment classes reach 10 or fewer shipments by 2045.

In response to the September 2020 NOPD, UCA stated that the historical shipments data presented by DOE is not complete and asserted that the shipments data does not capture dozens of manufacturers that do not belong to

AHRI and do not report their shipments to AHRI. UCA further stated that it sold 40 units in the WCUAC <64.9 kBtu/h category in 2018, while the table shows only 39 total units shipped in that year. UCA suggested the number could be 10 times higher and asserted similar discrepancies could apply across all categories. (UCA, No. 11 at p. 1)

In the July 2019 ECS RFI, DOE requested data on shipments, and in response to the RFI, DOE received shipments data from AHRI. In the September 2020 NOPD, DOE presented the shipments information received to that point. In addition, DOE requested comments and data concerning the tentative determination and the underlying data and analyses. The previously discussed number of shipments provided by UCA (40 units) only applies for a single manufacturer for a single equipment class of WCUAC (<65,000 Btu/h) equipment for a single year. Because this was a single data point, DOE lacked sufficient context to incorporate it into the shipment analysis (*e.g.,* how this data point compares to UCA's shipments in previous years, how this compares to UCA's shipments for other WCUAC capacity ranges). Without such context DOE could not incorporate this data point. For this Final Determination, DOE did not identify any other sources of shipments data beyond the AHRI data incorporated in the September 2020 NOPD analyses.

UCA also disagreed with shipment trends showing a decline in WCUACs over the next 20-plus years, as it stated that there are thousands of WCUACs that will be replaced over the next decade in the very large WCUAC class. (UCA, No. 11 at p. 1) UCA also commented that its sales for its main equipment line has gone down substantially, and that the equipment capacities it now offers are more limited. (UCA, No. 11–1[12] at p. 1) For this final determination, the three shipment projections developed by DOE were based on the historic shipments data available and presented in the September 2020 NOPD, and as historical data they would include any replacement shipments that have taken place. As additional shipments data were not provided to support UCA's assertion regarding replacement of WCUACs over the next decade, DOE did not modify the shipment projections.

Trane commented that there was a major drop in unitary air conditioner shipments that also affected WCUACs and ECUACs during the great recession of 2008(?), so looking forward 15–20 years, the market should also reflect that drop because there will not be units to replace. (Public Webinar Transcript, No. 10 at p. 15) Daikin commented that the need for office space likely will be declining for the foreseeable future stating that it was informed by one office building client that the client will only need about 70 percent of its current square footage going forward. (Public Webinar Transcript, No. 10 at p. 11)

As stated, DOE did not receive additional shipments data in response to the September 2020 NOPD. As such, DOE relied on the shipments data presented in the September 2020 NOPD for this final determination. Based on the existing shipments data, DOE developed a series of shipment projections to reflect uncertainty in the future of ECUAC and WCUAC shipments. As presented in the September 2020 NOPD, DOE developed three shipment projections (''2019 trend,'' ''2019 constant,'' and ''2019 regression''). DOE continued to rely on the 2019 trend, 2019 constant, and 2019 regression projections presented in September 2020 NOPD for this final determination. Additionally, DOE performed a sensitivity case to reflect a potential underreporting of ECUAC and WCUAC shipments. DOE developed a sensitivity analysis by multiplying the three shipment projections by 10 for all equipment classes to examine an upper bound estimate for potentially unreported shipments. The results of the sensitivity analysis are presented in section III.C.3 of this document.

2. Model Counts

Prior to receipt of updated shipments from AHRI in response to the July 2019 ECS RFI, DOE conducted a review of the market for WCUACs and ECUACs based on models included in the DOE CCMS database.[9] 84 FR 36480, 36484. In the September 2020 NOPD DOE provided that the number of ECUAC and WCUAC models on the market is substantially less than the number of ACUAC models on the market for all capacity ranges, and that this is consistent with the relationship between model counts identified in the May 2012 final rule. 85 FR 57149, 57156. This initial understanding of the ECUAC and WCUAC market as compared to the ACUAC market was further supported by the shipments data provided by AHRI. See discussion in section III.C.1 of this document. DOE did not receive any comments on the model counts presented in the September 2020 NOPD.

3. Current Market Efficiency Distributions

For the September 2020 NOPD, DOE examined the efficiency ratings of ECUACs and WCUACs currently on the market and presented efficiency distributions to reflect the current market. 85 FR 57149, 57157–57159. Table III.4 presents the summary of statistics by equipment category and capacity range of equipment for unique models[13] from DOE's CCMS Database.[9]

TABLE III.4—CURRENT MARKET EFFICIENCY DISTRIBUTIONS FOR WCUACS AND ECUAC

Cooling capacity range (Btu/h)	Number of unique models	Average cooling capacity (Btu/h)	EER			Current Federal EER Standard Level *
			Minimum	Average	Maximum	
Water-Cooled Air Conditioners						
<65,000	1	58,000	12.2	12.2	12.2	12.1
≥65,000 and <135,000	23	99,478	12.1	12.8	15.3	12.1
≥135,000 and <240,000	15	175,600	13.5	14.6	16.3	12.5
≥240,000 and <760,000	234	493,556	12.5	13.8	16.1**	12.4

[12] A hyphenated comment number indicates that the specific comment referenced is found in an attachment accompanying the comment submitted by the commenter. The number following the hyphen indicates which attachment is being referenced.

[13] The count of unique models excludes basic models that appear to be duplicates—*i.e.,* basic models sharing the same manufacturer and certified cooling capacity and EER ratings. For basic models that had multiple individual models certified with different capacities and different EER ratings, the individual models were considered to be unique models.

TABLE III.4—CURRENT MARKET EFFICIENCY DISTRIBUTIONS FOR WCUACS AND ECUAC—Continued

Cooling capacity range (Btu/h)	Number of unique models	Average cooling capacity (Btu/h)	EER			Current Federal EER Standard Level *
			Minimum	Average	Maximum	
Evaporatively-Cooled Air Conditioners						
<65,000	8	37,950	13.2	15.0	16.0	12.1
≥65,000 and <135,000	0	N/A	N/A	N/A	N/A	N/A
≥135,000 and <240,000	0	N/A	N/A	N/A	N/A	N/A
≥240,000 and <760,000	4	442,750	11.8	12.7	13.4	11.7

* For all capacity ranges except very large evaporatively-cooled air conditioners, the Federal EER standard listed is for ''no heat or electric heat'' class. For the very large evaporatively-cooled air conditioner class, the Federal EER standard listed is the ''all other types of heating'' class.

** As mentioned later in this section, this maximum EER value was determined to be an outlier, and thus the next highest efficiency level (*i.e.,* an EER of 15) was used as the ''max-tech'' value.

DOE used these efficiency distributions and the previously described shipment projections to develop estimated energy savings and percent of no-new-standards energy consumption for 30 years of shipments (2020–2049).

Energy savings were estimated based on the forecasted shipments labeled 2019 trend, 2019 constant, and 2019 regression. For the savings estimates labeled 2019 regression, as noted in section III.C.1 of this final determination, a regression projection was only developed for the very large equipment class.

As mentioned in section II.B.2 of this final determination, the cumulative site energy savings are calculated using the max-tech level, which is the highest value of efficiency in DOE's CCMS Database within each capacity range of ECUACs and WCUACs (*i.e.,* <65,000 Btu/h, 65,000–135,000 Btu/h, 135,000–240,000 Btu/h, and 240,000–760,000 Btu/h). However, for very large WCUACs, consideration of the highest efficiency value in DOE's CCMS database may not be appropriate for evaluating potential amendments to the energy conservation standards. As explained in the September 2020 NOPD, DOE considered the single model rated at 16.1 to be an outlier and subsequently calculated the energy savings from potential amended standards for very large WCUACs using the next highest level that was achievable across the range of capacities (*i.e.,* an EER of 15). 85 FR 57149, 57158. DOE did not receive any comments on the use of the max-tech efficiency levels in calculating the estimated savings in the NOPD, and the same max-tech levels were used for the final determination.

For the September 2020 NOPD, DOE did not incorporate changing trends in shipments by efficiency over time in the no-new-standards case. No comments were received on efficiency trends and DOE retained this assumption in the energy savings estimates, which vary by shipment scenario and equipment class, presented in Table III.5 of this final determination.

Selecting the minimum and maximum estimated savings scenario for each equipment class resulted in a range of total estimated site energy savings for the WCUAC classes of between 0.0030 quads (8.5 percent of estimated site energy use) and 0.0046 quads (8.6 percent of estimated site energy use), and for the ECUAC classes of 0.00006 quads (6.2 percent of estimated site energy use) and 0.00011 quads (6.0 percent of estimated site energy use) during the analysis period. For both equipment categories, the resulting estimated savings ranged between 0.0031 quads (8.5 percent of estimated site energy consumption) and 0.0047 quads (8.6 percent of estimated site energy consumption) during the analysis period depending on the combination of shipment projections analyzed. Because DOE received no comments resulting in changes to inputs or the analysis, the estimate savings presented in Table III.5 are the same as those presented in the September 2020 NOPD.

TABLE III.5—ESTIMATED NATIONAL SITE ENERGY SAVINGS AND PERCENT ENERGY REDUCTIONS FOR WCUACS AND ECUACS AT THE MAX-TECH LEVEL

Cooling capacity range (Btu/h)	Cumulative site national energy savings (quads) *			Reduction in national site energy consumption (percent)
	Trend	Constant	Regression	
WCUACs				
<65,000	0.00000	0.00000	.....	0.0
≥65,000 and <135,000	0.00005	0.00019	.....	13.3
≥135,000 and <240,000	0.00011	0.00025	.....	10.1
≥240,000 and <760,000	0.00287	0.00395	0.00413	8.4
ECUACs				
<65,000	0.00001	0.00004	.....	5.3
≥65,000 and <135,000	N/A	N/A	N/A	N/A
≥135,000 and <240,000	N/A	N/A	N/A	N/A

TABLE III.5—ESTIMATED NATIONAL SITE ENERGY SAVINGS AND PERCENT ENERGY REDUCTIONS FOR WCUACS AND ECUACS AT THE MAX-TECH LEVEL—Continued

Cooling capacity range (Btu/h)	Cumulative site national energy savings (quads) *			Reduction in national site energy consumption (percent)
	Trend	Constant	Regression	
≥240,000 and <760,000	0.00005	0.00006	0.00007	6.5

* Cumulative national energy savings are measured over the lifetime of ECUACs and WCUACs purchased in the 30- year analysis period (2020–2049).

As noted in section III.C.1 of this document, in response to a UCA comment regarding the completeness of shipment data, DOE conducted a sensitivity analysis by multiplying annual shipments in the three shipment projections by 10 and calculating the resulting estimated energy savings using the higher shipment projections. This sensitivity resulted in estimated total site energy savings for the WCUAC classes of between 0.0303 quads (8.5 percent of estimated site energy use of the evaluated equipment) and 0.0456 quads (8.6 percent of estimated site energy use of the evaluated equipment), and for the ECUAC classes of 0.0006 quads (6.2 percent of estimated site energy use of the evaluated equipment) and 0.0011 quads (6.0 percent of estimated site energy use of the evaluated equipment) during the analysis period. For both equipment categories, the resulting estimated savings ranged between 0.0308 quads (8.5 percent of estimated site energy use of the evaluated equipment) and 0.0467 quads (8.6 percent of estimated site energy use of the evaluated equipment) during the analysis period.

IV. Final Determination

As required by EPCA, this final determination analyzes whether amended standards for ECUACs and WCUACs would result in significant conservation of energy, be technologically feasible and economically justified. 42 U.S.C. 6313(a)(6)(A)(ii)(II). DOE has determined that the energy conservation standards for WCUACs and ECUACs do not need to be amended, having determined that it lacks ''clear and convincing'' evidence that amended standards would result in significant additional conservation of energy. As previously discussed, EPCA specifies that for any commercial and industrial equipment addressed under 42 U.S.C. 6313(a)(6)(A)(i), including WCUACs and ECUACs, DOE may prescribe an energy conservation standard more stringent than the level for such equipment in ASHRAE Standard 90.1 only if ''clear and convincing evidence'' shows that a more stringent standard would result in significant additional conservation of energy and is technologically feasible and economically justified. (42 U.S.C. 6313(a)(6)(C)(i); 42 U.S.C. 6313(a)(6)(A)(ii)(II))

IPI objected to DOE's reliance on the significance of energy threshold established in the Process Rule. (IPI, No, 12 at p. 1) IPI reiterated its comments regarding the significance of energy threshold it previously submitted to the rulemaking to update the Process Rule. (*See* IPI, [14] No. 12–3) IPI stated that DOE failed to analyze the benefit to consumers and the environment and the costs of achieving the 8.6 percent energy savings calculated using max-tech efficiency levels. (IPI, No. 12 at p. 1)

DOE disagrees with IPI's characterization of the statutory requirements applicable in the present case. EPCA specifically stipulates that the Secretary may not adopt a uniform national standard more stringent than the amended ASHRAE Standard 90.1 unless such standard would result in significant additional conservation of energy and is technologically feasible and economically justified. (42 U.S.C. 6313(a)(6)(A)(ii)(II)). A determination of whether energy savings would be significant is distinct from consideration of potential consumer cost impacts or environmental impacts, which are separate considerations in determining whether an amended standard is economically justified. (*See* 42 U.S.C. 6313(a)(6)(B)(ii)). In this final determination DOE is unable to determine, with clear and convincing evidence, that amended standards would result in significant additional conservation of energy based on the low projected energy savings combined with low and potentially declining product shipments (see sections III.C.3 and III.C.1, respectively).

[14] In the February 14, 2020 final rule amending the Process Rule the Institute for Policy Integrity at New York University's School of Law (referred to as ''IPI'' in this document) is abbreviated as ''NYU Law''. *See* 85 FR 8626.

An analysis of shipments data, a review of the CCMS database and the AHRI Directory, and comments received indicate that WCUACs and ECUACs continue to be a minor portion of total commercial air-cooled shipments with total combined shipments of less than 1,300 units in 2018. The shipments of very large WCUACs may be cyclical, linked to investment in commercial buildings, but the shipment projections also suggest that shipments may be continuing to decline.

DOE estimates that amended standards for ECUACs at the respective ''max-tech'' levels would result in additional site energy savings of no more than 0.0001 quads during the analysis period. DOE has determined the energy savings potential for ECUACs is *de minimis.* A sensitivity analysis allowing for a factor of 10 increase in shipments also resulted in an energy savings potential that is *de minimis* (see Section III.C.3). Therefore, DOE has determined that it lacks clear and convincing evidence that amended standards for ECUACs would result in significant additional conservation of energy.

For WCUACs, DOE estimated the additional energy savings based on the max- tech levels for small and large WCUACs, which were determined by identifying the highest efficiency ratings in the DOE CCMS Database. For very large WCUACs DOE determined that there is substantial doubt as to the appropriateness of using the highest efficiency reported in the DOE CCMS Database as the max-tech level. As discussed, there is a substantial question of whether the combination of technologies used to achieve the highest reported level for very large WCUACs is practicable for basic models across the capacity range of that equipment class. As such, DOE has determined that an energy savings calculation that would rely on the highest reported efficiency for very large WCUACs would not meet the ''clear and convincing evidence'' threshold required by EPCA. Instead, DOE analyzed the next most efficient level reported in the DOE CCMS

Database for very large WCUACs, which did not raise similar concerns, as the max-tech level for very large WCUACs.

Using this next highest efficiency level for very large WCUACs and the max-tech efficiency levels for the small and large classes of WCUACs, DOE calculated that amended standards would result in additional site energy savings of no more than 0.0046 quads for all WCUAC classes during the analysis period. DOE has determined the energy savings potential for WCUACs is *de minimis.* A sensitivity analysis allowing for a factor of 10 increase in shipments also resulted an energy savings potential that is *de minimis* (see Section III.C.3). Therefore, DOE has determined that it lacks clear and convincing evidence that amended standards for WCUACs would result in significant additional conservation of energy. Based on the consideration of significant additional conservation of energy and that these markets are small and may be declining, DOE has determined that the energy conservation standards for ECUACs and WCUACs do not need to be amended.

V. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

This final determination has been determined to be not significant for purposes of Executive Order (''E.O.'') 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). As a result, the Office of Management and Budget (''OMB'') did not review this final determination.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (''IRFA'') for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website (*https://energy.gov/gc/office-general-counsel*).

In response to the NOPD, UCA provided a number of general comments regarding the potential impacts of efficiency regulations on equipment and small businesses. UCA commented that small businesses are often not members of trade associations and do not have staff reading the **Federal Register**, and therefore do not get information on regulations. UCA also stated that small businesses generally do not have the resources to evaluate and access newer technologies at the same time as larger companies and do not have the resources to develop an alternative efficiency determination method. UCA further stated that small commercial HVAC manufacturers have higher costs to fabricate units for testing. (UCA No. 11–1, pp. 2–3)

DOE reviewed this final determination pursuant to the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. As stated, this final determination is not amending standards for ECUACs and WCUACs. Further, this final determination does not amend the certification and reporting requirements. Therefore, DOE certifies that this final determination has no significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared a final regulatory flexibility analysis (''FRFA'') for this final determination. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

Manufacturers of ECUACs and WCUACs must certify to DOE that their equipment complies with any applicable energy conservation standards. In certifying compliance, manufacturers must test their equipment according to the DOE test procedures for ECUACs and WCUACs, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including ECUACs and WCUACs. 76 FR 12422 (March 7, 2011); 80 FR 5099 (Jan. 30, 2015). The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (''PRA''). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act of 1969 (''NEPA''), DOE has analyzed this final determination in accordance with NEPA and DOE's NEPA implementing regulations (10 CFR part 1021). DOE has determined that this rule qualifies for categorical exclusion A4 because it is an interpretation or ruling in regards to an existing regulation and otherwise meets the requirements for application of a categorical exclusion. See 10 CFR 1021.410. Therefore, DOE has determined that promulgation of this rule is not a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA, and does not require an environmental assessment or an environmental impact statement.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. As this final determination does not amend the standards for ECUACs and WCUACs, there is no impact on the policymaking discretion of the States. Therefore, no action is required by Executive Order 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final determination meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA'') requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *https://energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.*

This final determination does not contain a Federal intergovernmental mandate, nor is it expected to require expenditure of $100 million or more in one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final determination would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (March 15, 1988), DOE has determined that this final determination would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at *https://www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf.* DOE has reviewed this final determination under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (''OIRA'') at OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

Because this final determination does not amend the current standards for ECUACs and WCUACs, it is not a significant energy action, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Information Quality

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (''OSTP''), issued its Final Information Quality Bulletin for Peer Review (''the Bulletin''). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are ''influential scientific information,'' which the Bulletin defines as ''scientific information the agency reasonably can

determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.'' *Id.* at 70 FR 2667.

In response to OMB's Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and has prepared a report describing that peer review.[15] Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. DOE has determined that the peer-reviewed analytical process continues to reflect current practice, and the Department followed that process for developing energy conservation standards in the case of the present rulemaking.

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final determination.

Signing Authority

This document of the Department of Energy was signed on July 7, 2021, by Kelly Speakes-Backman, Principal Deputy Assistant Secretary and Acting Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE **Federal Register** Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on July 8, 2021.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2021–14837 Filed 7–13–21; 8:45 am]

BILLING CODE 6450–01–P

[15] ''Energy Conservation Standards Rulemaking Peer Review Report.'' 2007. Available at *https://energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0.*

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2021–0582; Special Conditions No. FAA–2021–0582–F]

Special Conditions: Archeion Holdings, LLC, Boeing Model No. 777–200/–200LR/–300/–300ER Series Airplanes; Electronic-System Security Protection From Unauthorized External Access

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Boeing Model 777–200/–200LR/–300/–300ER Series Airplanes. These airplanes, as modified by Archeion Holdings, LLC (Archeion), will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. This design feature is a digital systems architecture for the installation of a system with wireless network and hosted application functionality that allows access from external sources to the airplane's internal electronic components. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Archeion on July 14, 2021. Send comments on or before August 30, 2021.

ADDRESSES: Send comments identified by Docket No. FAA–2021–0582 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received without change to *http://www.regulations.gov/,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about this proposal.

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this Notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this Notice, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and the indicated comments will not be placed in the public docket of this Notice. Submissions containing CBI should be sent to Varun Khanna, Airplane and Flight Crew Interface Section, AIR–622, Aircraft Information Systems, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, Washington 98198; telephone and fax 206–231–3159; email *Varun.Khanna@faa.gov.* Comments the FAA receives, which are not specifically designated as CBI, will be placed in the public docket for this rulemaking.

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Varun Khanna, Airplane and Flight Crew Interface Section, AIR–622, Aircraft Information Systems, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, Washington 98198;

telephone and fax 206–231–3159; email *Varun.Khanna@faa.gov.*

SUPPLEMENTARY INFORMATION: The substance of these special conditions has been published in the **Federal Register** for public comment in several prior instances with no substantive comments received. Therefore, the FAA finds, pursuant to 14 CFR 11.38(b), that new comments are unlikely and prior public notice and comment are unnecessary.

Comments Invited

The FAA invites interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

The FAA will consider all comments received by the closing date for comments. The FAA may change these special conditions based on the comments received.

Background

On July 14, 2020, Archeion applied for a change to Type Certificate No. T00001SE for the installation of an Avionica avWIFI system with wireless network and hosted application functionality in Boeing Model 777–200/–200LR/–300/–300ER series airplanes. These airplanes, currently approved under Type Certificate No. T00001SE, are twin-engine, transport category airplanes, with a maximum takeoff weight between 535,000 lbs and 775,000 lbs pounds, and a maximum passenger capacity of 550 persons.

Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.101, Archeion must show that the Boeing Model 777–200/–200LR/–300/–300ER series airplanes, as changed, continue to meet the applicable provisions of the regulations listed in Type Certificate No. T00001SE or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*e.g.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Boeing Model 777–200/–200LR/–300/–300ER series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 777–200/–200LR/–300/–300ER series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Feature

The Boeing Model 777–200/–200LR/–300/–300ER series airplanes will incorporate the following novel or unusual design feature:

A digital systems architecture for the installation of a system with wireless network and hosted application functionality that allows access from external sources to the airplane's internal electronic components.

Discussion

The digital systems architecture for the installation of an Avionica avWIFI system with wireless network and hosted application functionality on these Boeing model 777 airplanes is a novel or unusual design feature for transport-category airplanes because it is composed of several connected networks. This proposed network architecture is used for a diverse set of airplane functions, including:

- Flight-safety related control and navigation systems.
- airline business and administrative support.
- passenger entertainment, and
- access by systems external to the airplane.

The airplane-control domain and airline information-services domain of these networks perform functions required for the safe operation and maintenance of the airplane. Previously, these domains had very limited connectivity with external network sources. This network architecture creates a potential for unauthorized persons to access the airplane-control domain and airline information-services domain from sources external to the airplane, and presents security vulnerabilities related to the introduction of computer viruses and worms, user errors, and intentional sabotage of airplane electronic assets (networks, systems, and databases) critical to the safety and maintenance of the airplane.

The existing FAA regulations did not anticipate these networked airplane system architectures. Furthermore, these regulations and the current guidance material do not address potential security vulnerabilities, which could be exploited by unauthorized access to airplane networks, data buses, and servers. Therefore, these special conditions ensure that the security (*i.e.,* confidentiality, integrity, and availability) of airplane systems will not be compromised by unauthorized wired or wireless electronic connections. This includes ensuring that the security of the airplane's systems is not compromised during maintenance of the airplane's electronic systems. These special conditions also require the applicant to provide appropriate instructions to the operator to maintain all electronic-system safeguards that have been implemented as part of the original network design so that this feature does not allow or reintroduce security threats.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Boeing Model 777–200/–200LR/–300/–300ER series airplanes. Should Archeion apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. T00001SE to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only a certain novel or unusual design features on one model series of airplanes. It is not a rule of general applicability and affects only the applicant.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special

conditions are issued as part of the type certification basis for Boeing Model 777–200/–200LR/–300/–300ER series airplanes, as modified by Archeion Holdings, LLC, for airplane electronic-system security protection from unauthorized external access.

(a) The applicant must ensure airplane electronic-system security protection from access by unauthorized sources external to the airplane, including those possibly caused by maintenance activity.

(b) The applicant must ensure that electronic-system security threats are identified and assessed, and that effective electronic-system security protection strategies are implemented to protect the airplane from all adverse impacts on safety, functionality, and continued airworthiness.

(c) The applicant must establish appropriate procedures to allow the operator to ensure that continued airworthiness of the airplane is maintained, including all post-type-certification modifications that may have an impact on the approved electronic-system security safeguards.

Issued in Des Moines, Washington, on July 7, 2021.

Mary A. Schooley,

Acting Manager, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2021–14974 Filed 7–13–21; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–FAA–2021–0583; Special Conditions No. FAA–2021–0583–F]

Special Conditions: Archeion Holdings, LLC, Boeing Model No. 777–200/–200LR/–300/–300ER Series Airplanes; Electronic-System Security Protection From Unauthorized Internal Access

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Boeing Model No. 777–200/–200LR/–300/–300ER series airplanes. These airplanes, as modified by Archeion Holdings, LLC (Archeion), will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. This design feature is a digital systems architecture for the installation of a system with wireless network and hosted application functionality that allows access, from sources internal to the airplane, to the airplane's internal electronic components. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Archeion on July 14, 2021. Send comments on or before August 30, 2021.

ADDRESSES: Send comments identified by Docket No. FAA–2021–0583 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received without change to *http://www.regulations.gov/,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about this proposal.

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this Notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this Notice, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and the indicated comments will not be placed in the public docket of this Notice. Submissions containing CBI should be sent to Varun Khanna, Airplane and Flight Crew Interface Section, AIR–622, Aircraft Information Systems, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, Washington 98198; telephone and fax 206–231–3159; email *Varun.Khanna@faa.gov.* Comments the FAA receives, which are not specifically designated as CBI, will be placed in the public docket for this rulemaking.

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Varun Khanna, Airplane and Flight Crew Interface Section, AIR–622, Aircraft Information Systems, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, Washington 98198; telephone and fax 206–231–3159; email *Varun.Khanna@faa.gov.*

SUPPLEMENTARY INFORMATION: The substance of these special conditions has been published in the **Federal Register** for public comment in several prior instances with no substantive comments received. Therefore, the FAA finds, pursuant to 14 CFR 11.38(b), that new comments are unlikely and prior public notice and comment are unnecessary.

Comments Invited

The FAA invites interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

The FAA will consider all comments received by the closing date for comments. The FAA may change these special conditions based on the comments received.

Background

On July 14, 2020, Archeion applied for a change to Type Certificate No.

T00001SE for the installation of an Avionica avWIFI system with wireless network and hosted application functionality in Boeing Model 777–200/–200LR/–300/–300ER series airplanes. These airplanes, currently approved under Type Certificate No. T00001SE, are twin-engine, transport category airplanes, with a maximum takeoff weight between 535,000 lbs and 775,000 lbs pounds, and a maximum passenger capacity of 550 persons.

Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.101, Archeion must show that the Boeing Model 777–200/–200LR/–300/–300ER series airplanes, as changed, continue to meet the applicable provisions of the regulations listed in Type Certificate No. T00001SE or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*e.g.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Boeing Model 777–200/–200LR/–300/–300ER series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 777–200/–200LR/–300/–300ER series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Feature

The Boeing Model 777–200/–200LR/–300/–300ER series airplanes will incorporate the following novel or unusual design feature:

A digital systems architecture for the installation of a system with wireless network and hosted application functionality that allows access, from sources internal to the airplane, to the airplane's internal electronic components.

Discussion

The digital systems architecture for the installation of an Avionica avWIFI system with wireless network and hosted application functionality on these Boeing Model 777 airplanes is a novel or unusual design feature for transport category airplanes because it is composed of several connected networks. This proposed network architecture is used for a diverse set of airplane functions, including:

- Flight-safety related control and navigation systems,
- airline business and administrative support, and
- passenger entertainment.

The airplane control domain and airline information-services domain of these networks perform functions required for the safe operation and maintenance of the airplane. Previously, these domains had very limited connectivity with other network sources. This network architecture creates a potential for unauthorized persons to access the aircraft control domain and airline information-services domain from sources internal to the airplane, and presents security vulnerabilities related to the introduction of computer viruses and worms, user errors, and intentional sabotage of airplane electronic assets (networks, systems, and databases) critical to the safety and maintenance of the airplane.

The existing FAA regulations did not anticipate these networked airplane system architectures. Furthermore, these regulations and the current guidance material do not address potential security vulnerabilities, which could be exploited by unauthorized access to airplane networks, data buses, and servers. Therefore, these special conditions ensure that the security (*i.e.,* confidentiality, integrity, and availability) of airplane systems will not be compromised by unauthorized wired or wireless electronic connections from within the airplane. These special conditions also require the applicant to provide appropriate instructions to the operator to maintain all electronic-system safeguards that have been implemented as part of the original network design so that this feature does not allow or reintroduce security threats.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Boeing Model 777–200/–200LR/–300/–300ER series airplanes. Should Archeion apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. T00001SE to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only a certain novel or unusual design feature on Boeing Model 777–200/–200LR/–300/–300ER series airplanes. It is not a rule of general applicability and affects only the applicant.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Boeing Model 777–200/–200LR/–300/–300ER series airplanes, as modified by Archeion Holdings, LLC, for airplane electronic-system security protection from unauthorized internal access.

(a) The applicant must ensure that the design provides isolation from, or airplane electronic-system security protection against, access by unauthorized sources internal to the airplane. The design must prevent inadvertent and malicious changes to, and all adverse impacts upon, airplane equipment, systems, networks, or other assets required for safe flight and operations.

(b) The applicant must establish appropriate procedures to allow the operator to ensure that continued airworthiness of the aircraft is maintained, including all post type certification modifications that may have an impact on the approved electronic-system security safeguards.

Issued in Des Moines, Washington, on July 7, 2021.

Mary A. Schooley,

Acting Manager, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2021–14975 Filed 7–13–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0335; Project Identifier MCAI–2020–01665–R; Amendment 39–21632; AD 2021–14–05]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus Helicopters Deutschland GmbH Model MBB–BK 117 A–1, MBB–BK 117 A–3, MBB–BK 117 A–4, MBB–BK 117 B–1, MBB–BK 117 B–2, and MBB–BK 117 C–1 helicopters. This AD was prompted by a report of sudden severe vibrations and a cracked open blade trailing edge caused by a loosened lead inner weight. This AD requires inspections to determine if any bolted main rotor blades are installed, and replacement of the affected main rotor blades. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 18, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of August 18, 2021.

ADDRESSES: For service information identified in this final rule, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; phone: 972–641–0000 or 800–232–0323; fax: 972–641–3775; or at *https://www.airbus.com/helicopters/services/-support.html.* You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. Service information that is incorporated by reference is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0335.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0335; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the Luftfahrt-Bundesamt AD, any comments received, and other information. The street address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Kathleen Arrigotti, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3218; email: *kathleen.arrigotti@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus Helicopters Deutschland GmbH Model MBB–BK 117 A–1, MBB–BK 117 A–3, MBB–BK 117 A–4, MBB–BK 117 B–1, MBB–BK 117 B–2, and MBB–BK 117 C–1 helicopters. The NPRM published in the **Federal Register** on April 26, 2021 (86 FR 21965). In the NPRM, the FAA proposed to require inspections to determine if any bolted main rotor blades are installed, and replacement of the affected main rotor blades. The NPRM was prompted by a report of sudden severe vibrations and a cracked open blade trailing edge caused by a loosened lead inner weight.

German AD D–2005–115, effective March 15, 2005 (German AD D–2005–115), issued by Luftfahrt-Bundesamt, which is the aviation authority for Germany, was issued to correct an unsafe condition for Eurocopter Deutschland (now Airbus Helicopters Deutschland GmbH) Model MBB–BK 117 A–1, MBB–BK 117 A–3, MBB–BK 117 A–4, MBB–BK 117 B–1, MBB–BK 117 B–2, and MBB–BK 117 C–1 helicopters. Luftfahrt-Bundesamt advises that during the flight of a BK117 severe vibrations suddenly occurred, stemming from a cracked open blade trailing edge, which was traced to a loosened lead inner weight bolt. Additional inspection revealed extreme cavities of the lead weight resulting from the bolting process, which was performed as a repair for main rotor blades with bulging in the area of the lead inner weights. This condition, if not addressed, could result in loss of control of the helicopter.

Accordingly, German AD D–2005–115 requires an inspection and log card review to determine if any bolted main rotor blades are installed, and replacement of the affected main rotor blades.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the costs.

Conclusion

These helicopters have been approved by the aviation authority of Germany and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with Germany (now a member of the European Union), Luftfahrt-Bundesamt, its technical representative, has notified the FAA of the unsafe condition described in its AD. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these helicopters. Except for minor editorial changes, this AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Eurocopter Alert Service Bulletin No. ASB–MBB–BK117–10–125, dated February 14, 2005. This service information specifies procedures for an inspection (for cracking of the paint) and log card review (for a certain entry or equivalent) to determine if any bolted main rotor blades (*i.e.,* main rotor blades with bolted lead inner weights) are installed, and replacement of the affected main rotor blades.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 44 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
3 work-hours × $85 per hour = $255	$0	$255	$11,220

The FAA estimates the following costs to do any necessary on-condition replacements that would be required based on the results of any required actions. The FAA has no way of determining the number of helicopters that might need these on-condition replacements:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
Up to 20 work-hours × $85 per hour = $1,700 per blade (up to 4 blades).	Up to $23,100 per blade (up to 4 blades).	Up to $24,800 per blade (up to 4 blades).

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on helicopters identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2021–14–05 Airbus Helicopters Deutschland GmbH: Amendment 39–21632; Docket No. FAA–2021–0335; Project Identifier MCAI–2020–01665–R.

(a) Effective Date

This airworthiness directive (AD) is effective August 18, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus Helicopters Deutschland GmbH Model MBB–BK 117 A–1, MBB–BK 117 A–3, MBB–BK 117 A–4, MBB–BK 117 B–1, MBB–BK 117 B–2, and MBB–BK 117 C–1 helicopters, certificated in any category.

(d) Subject

Joint Aircraft Service Component (JASC) Code: 6210, Main Rotor Blades.

(e) Unsafe Condition

This AD was prompted by a report of sudden severe vibrations and a cracked open blade trailing edge caused by a loosened lead inner weight. The FAA is issuing this AD to address bolted lead inner weights of the main rotor blade, which could loosen and cause cracking of the open blade trailing edge. The unsafe condition, if not addressed, could result in loss of control of the helicopter.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

Within 30 days after the effective date of this AD, review the log card (or equivalent record) and visually inspect each main rotor blade to determine if any bolted main rotor blades (*i.e.,* main rotor blade with bolted lead inner weight) are installed in accordance with paragraphs 2.A.1., 2.B.1., 2.B.2., and 2.B.3. of the Accomplishment Instructions of Eurocopter Alert Service Bulletin No. ASB–MBB–BK117–10–125, dated February 14, 2005. If during the review, the total hours time-in-service (TIS) cannot be positively determined, this AD requires treating that part as having accumulated more than 3,000 total hours TIS. If any bolted main rotor blade (*i.e.,* main rotor blade with bolted lead inner weight) is installed, replace the main rotor blade in accordance with paragraph 2.B.4. of the Accomplishment Instructions of Eurocopter Alert Service Bulletin ASB–MBB–BK117–10–125, dated February 14, 2005, as follows:

(1) For a bolted main rotor blade that has accumulated less than 2,300 total hours TIS on the blade since bolting of the lead inner weight as of the effective date of this AD: Before accumulating 2,500 total hours TIS on the blade since bolting of the lead inner weights.

(2) For a bolted main rotor blade that has accumulated 2,300 total hours TIS up to 3,000 total hours TIS inclusive, on the blade since bolting of the lead inner weight as of the effective date of this AD: Within 200 hours TIS after the effective date of this AD.

(3) For a bolted main rotor blade that has accumulated more than 3,000 total hours TIS on the blade since bolting of the lead inner weight as of the effective date of this AD: Within 50 hours TIS after the effective date of this AD.

(h) Contacting the Manufacturer To Determine TIS

Where Eurocopter Alert Service Bulletin ASB–MBB–BK117–10–125, dated February 14, 2005, specifies to send a form to the manufacturer to determine TIS since bolting, this AD does not include that requirement.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (j)(1) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(j) Related Information

(1) For more information about this AD, contact Kathleen Arrigotti, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3218; email: *kathleen.arrigotti@faa.gov.*

(2) The subject of this AD is addressed in Luftfahrt-Bundesamt German AD D–2005–115, effective March 15, 2005. You may view the Luftfahrt-Bundesamt German AD at *https://www.regulations.gov* in Docket No. FAA–2021–0335.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Eurocopter Alert Service Bulletin No. ASB–MBB–BK117–10–125, dated February 14, 2005.

(ii) [Reserved]

(3) For service information identified in this AD, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; phone: 972–641–0000 or 800–232–0323; fax: 972–641–3775; or at *https://www.airbus.com/helicopters/services/-support.html.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on July 8, 2021.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–14925 Filed 7–13–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0566; Project Identifier MCAI–2021–00733–T; Amendment 39–21651; AD 2021–15–04]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 767–300 series airplanes as modified by a certain supplemental type certificate (STC). This AD was prompted by a report that the electrical diagram for the C9066 circuit breaker connection (wiring) for the ''Main Deck Oxygen Alert Control'' is erroneous and might have resulted in incorrect installation. This AD requires inspecting the wiring connection common to the C9066 circuit breaker and, if necessary, making changes to the wiring connection and testing the main deck oxygen alert system. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective July 14, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 14, 2021.

The FAA must receive comments on this AD by August 30, 2021.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact Israel Aerospace Industries, Ltd., Ben Gurion Airport, Israel 70100; telephone 972–39359826; email *tmazor@iai.co.il.* You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0566.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0566; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, any comments received, and other information. The street address for the Docket Operations office is listed above.

FOR FURTHER INFORMATION CONTACT: Brian Hernandez, Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3535; email: *Brian.Hernandez@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Civil Aviation Authority of Israel (CAAI), which is the aviation authority for Israel, has issued Israeli AD ISR–I–24–2021–6–6R1, dated June 27, 2021 (also referred to after this as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for The Boeing Company Model 767–300 series airplanes, that have been modified to a Bedek Division Special Freighter (BDSF), designated as 767–300BDSF, in accordance with CAAI STC SA218/FAA STC ST02040SE/European Union Aviation Safety Agency (EASA) STC 10028430 (as listed in the appendix of the MCAI). Only FAA STC ST02040SE is approved for U.S. operators. You may examine the MCAI on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0566.

This AD was prompted by a report that the electrical diagram for the C9066 circuit breaker connection (wiring) for the ''Main Deck Oxygen Alert Control'' is erroneous and might have resulted in

incorrect installation. This incorrect installation leads to an unprotected circuit, and therefore any wires or system components that might lie adjacent to the wiring that would normally be protected by the C9066 circuit breaker might be affected. The FAA is issuing this AD to address potential incorrect installation of the ''Main Deck Oxygen Alert Control'' circuit breaker, which could result in overheating and burning of the wiring, and consequently, could result in smoke triggering an alarm and causing the crew workload to increase; or could result in a short circuit to adjacent wires causing malfunctions in other systems. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

Israel Aerospace Industries, Ltd., has issued IAI-Aviation Group Alert Service Bulletin 368–24–098, Revision 1, dated June 2021. This service information describes procedures for a visual inspection of the wiring connection common to the C9066 circuit breaker, changes to the wiring connection, if necessary, and a test of the main deck oxygen alert system, if necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI and service information referenced above. The FAA is issuing this AD because the FAA evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Requirements of This AD

This AD requires accomplishing the actions specified in the service information described previously.

FAA's Justification and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause,'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because incorrect installation of the ''Main Deck Oxygen Alert Control'' circuit breaker could result in overheating and burning of wiring, and consequently, could result in smoke triggering an alarm and causing the crew workload to increase; or could result in a short circuit to adjacent wires causing malfunctions in other systems. Furthermore, since this is a potentially unprotected circuit, if any failure occurs along the length of this circuit it could result in a fire and cause collateral damage to adjacent circuits and affect critical systems necessary for continued safe flight and landing. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B). In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forgo notice and comment.

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0566; Project Identifier MCAI–2021–00733–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Brian Hernandez, Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3535; email: *Brian.Hernandez@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Regulatory Flexibility Act (RFA)

The requirements of the RFA do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 71 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	1 work-hour × $85 per hour = $85	$0	$85	$6,035

The FAA estimates the following costs to do any necessary on-condition actions that would be required based on the results of the inspection. The FAA has no way of determining the number of aircraft that might need these actions:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Wiring change and test	1 work-hour × $85 per hour = $85	$0	$85

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866, and

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2021–15–04 The Boeing Company: Amendment 39–21651; Docket No. FAA–2021–0566; Project Identifier MCAI–2021–00733–T.

(a) Effective Date

This airworthiness directive (AD) becomes effective July 14, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 767–300 series airplanes, certificated in any category, that have been modified to a Bedek Division Special Freighter (BDSF), in accordance with FAA Supplemental Type Certificate (STC) ST02040SE (the freighter configuration is designated as 767–300BDSF), and which are listed in paragraph 1.A., ''Effectivity,'' of IAI-Aviation Group Alert Service Bulletin 368–24–098, Revision 1, dated June 2021.

(d) Subject

Air Transport Association (ATA) of America Code 24, Electrical Power.

(e) Reason

This AD was prompted by a report that the electrical diagram for the C9066 circuit breaker connection (wiring) for the ''Main Deck Oxygen Alert Control'' is erroneous and might have resulted in incorrect installation. The FAA is issuing this AD to address potential incorrect installation of the ''Main Deck Oxygen Alert Control'' circuit breaker, which could result in overheating and burning of the wiring, and consequently, could result in smoke triggering an alarm and causing the crew workload to increase; or could result in a short circuit to adjacent wires causing malfunctions in other systems. Furthermore, since this is a potentially unprotected circuit, if any failure occurs along the length of this circuit it could result in a fire and cause collateral damage to adjacent circuits and affect critical systems necessary for continued safe flight and landing.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspection, Wiring Connection Change, and Test

Within 10 days after the effective date of this AD, perform a detailed inspection of the wiring connection common to the C9066 circuit breaker to make sure 20 AWG wire is connected to terminal 1 and the BUS is connected to terminal 2, in accordance with steps 1. through 3. of the Accomplishment Instructions of IAI-Aviation Group Alert Service Bulletin 368–24–098, Revision 1, dated June 2021. If 20 AWG wire is not connected to terminal 1 or the BUS is not connected to terminal 2, before further flight, make changes to the wiring connection and test the main deck oxygen alert system, in accordance with steps 4. through 13. of the Accomplishment Instructions of IAI-Aviation Group Alert Service Bulletin 368–24–098, Revision 1, dated June 2021.

(h) No Report

Although IAI-Aviation Group Alert Service Bulletin 368–24–098, Revision 1, dated June 2021, specifies to report inspection findings, this AD does not require any report.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending

information directly to the manager of the certification office, send it to the attention of the person identified in Related Information. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Civil Aviation Authority of Israel (CAAI) Israeli AD ISR–I–24–2021–6–6R1, dated June 27, 2021, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0566.

(2) For more information about this AD, contact Brian Hernandez, Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3535; email: *Brian.Hernandez@faa.gov.*

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) IAI-Aviation Group Alert Service Bulletin 368–24–098, Revision 1, dated June 2021.

(ii) [Reserved]

(3) For service information identified in this AD, contact Israel Aerospace Industries, Ltd., Ben Gurion Airport, Israel 70100; telephone 972–39359826; email *tmazor@iai.co.il.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on July 8, 2021.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–15026 Filed 7–12–21; 11:15 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 323

[3084–AB64]

Made in USA Labeling Rule

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') issues a final rule related to ''Made in USA'' and other unqualified U.S.-origin claims on product labels.

DATES: This final rule is effective August 13, 2021.

FOR FURTHER INFORMATION CONTACT: Julia Solomon Ensor (202–326–2377) or Hampton Newsome (202–326–2889), Attorneys, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Room CC–9528, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

On July 16, 2020, the Commission published a Notice of Proposed Rulemaking (''NPRM'') (85 FR 43162) seeking comments on a new rule regarding unqualified U.S.-origin claims (''MUSA claims'') on product labels. The NPRM was preceded by a review of the Commission's longstanding program to prevent deceptive MUSA claims.[1] The review included a 2019 public workshop and public comment period, where stakeholders expressed nearly universal support for a rule addressing MUSA labels.[2]

The Commission published a new rule in the NPRM pursuant to its authority under 15 U.S.C. 45a (''Section 45a''). Section 45a declares: ''[t]o the extent any person introduces, delivers for introduction, sells, advertises, or offers for sale in commerce a product with a 'Made in the U.S.A.' or 'Made in America' label, or the equivalent thereof, in order to represent that such product was in whole or substantial part of domestic origin, such label shall be consistent with decisions and orders of the Federal Trade Commission.'' The statute authorizes the agency to issue rules to effectuate this mandate and prevent unfair or deceptive acts or practices relating to MUSA labeling.[3] Specifically, under the statute, the Commission ''may from time to time issue rules pursuant to section 553 of title 5, United States Code'' requiring MUSA labeling to ''be consistent with decisions and orders of the Federal Trade Commission issued pursuant to [Section 5 of the FTC Act].'' The statute authorizes the FTC to seek civil penalties for violations of such rules.[4]

Consistent with these statutory provisions, the NPRM proposed a rule covering labels on products that make unqualified U.S.-origin claims. Consistent with the Commission's MUSA Decisions and Orders since the 1940s,[5] the NPRM proposed to codify the established principle that unqualified U.S.-origin claims imply to consumers no more than a *de minimis* amount of the product is of foreign origin.[6]

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[1] This program consisted of compliance monitoring, counseling, and targeted enforcement pursuant to the FTC's general authority under 15 U.S.C. 45 (''Section 5'' of the FTC Act). Section 5 prohibits unfair or deceptive acts or practices in or affecting commerce. An act or practice is deceptive if it is likely to mislead consumers acting reasonably under the circumstances and is material—that is, likely to affect a consumer's decision to purchase or use the advertised product or service. A claim need not mislead all—or even most—consumers to be deceptive under the FTC Act. Rather, it need only be likely to deceive some consumers acting reasonably. *See FTC Policy Statement on Deception,* 103 F.T.C. 174 (1984) (*appended to Cliffdale Assocs., Inc.,* 103 F.T.C. 110, 177 n.20 (1984) (''A material practice that misleads a significant minority of reasonable consumers is deceptive.''); *see also FTC* v. *Stefanchik,* 559 F.3d 924, 929 (9th Cir. 2009) (''The FTC was not required to show that all consumers were deceived . . . .'').

[2] Commenters argued such a rule could have a strong deterrent effect against unlawful MUSA claims without imposing new burdens on law-abiding companies. *See generally* Transcript of Made in USA: An FTC Workshop (Sept. 26, 2019) at 63–72, *available at https://www.ftc.gov/news-events/events-calendar/made-usa-ftc-workshop;* FTC Staff Report, Made in USA Workshop (June 2020) (''MUSA Report''), *available at https://www.ftc.gov/system/files/documents/reports/made-usa-ftc-workshop/p074204_-_musa_workshop_report_-_final.pdf.*

[3] *See* Section 320933 of the Violent Crime and Law Enforcement Act of 1994, Public Law 103–322, 108 Stat. 1796, 2135, codified in relevant part at 15 U.S.C. 45a. Section 45a also states: ''This section shall be effective upon publication in the **Federal Register** of a Notice of the provisions of this section.'' The Commission published such a notice in 1995 (60 FR 13158 (Mar. 10, 1995).

[4] Under the statute, violations of any rule promulgated pursuant to Section 45a ''shall be treated by the Commission as a violation of a rule under section 57a of this title regarding unfair or deceptive acts or practices.'' For violations of rules issued pursuant to 15 U.S.C. 57a, the Commission may commence civil actions to recover civil penalties. *See* 15 U.S.C. 45(m)(1)(A).

[5] *See, e.g., Vulcan Lamp Works, Inc.,* 32 F.T.C. 7 (1940); *Windsor Pen Corp.,* 64 F.T.C. 454 (1964) (articulating this standard as a ''wholly of domestic origin'' standard).

[6] This principle was incorporated into the Commission's 1997 *Enforcement Policy Statement on U.S. Origin Claims* (the ''Policy Statement'') following consumer research and public comment, as the ''all or virtually all'' principle. Specifically, the Policy Statement provides a marketer making an unqualified claim for its product should, at the time of the representation, have a reasonable basis for asserting ''all or virtually all'' of the product is made in the United States. FTC, *Issuance of Enforcement Policy Statement on ''Made in USA'' and Other U.S. Origin Claims,* 62 FR 63756, 63766

The NPRM, consistent with the Commission's prior rulings and consumer perception surveys, proposed a rule prohibiting marketers from including unqualified U.S.-origin claims on labels unless: (1) Final assembly or processing of the product occurs in the United States; (2) all significant processing for the product occurs in the United States; and (3) all or virtually all of the product's ingredients or components are made and sourced in the United States. By codifying existing guidance, the proposed rule sought to impose no new obligations on market participants.

To avoid confusion or perceived conflict with other country-of-origin labeling laws and regulations, the NPRM contained a provision specifying the rule does not supersede, alter, or affect any other federal or state statute or regulation relating to country-of-origin labels, except to the extent a state country-of-origin statute, regulation, order, or interpretation is inconsistent with the proposed rule.[7]

In response to the NPRM, the Commission received hundreds of comments, discussed *infra* Section II. Although some raised concerns or recommended changes to the Commission's proposal, the majority supported finalizing the rule as drafted. Accordingly, the Commission adopts the proposed rule with limited modifications as discussed below.[8] The rule will take effect August 13, 2021.

II. Response to Comments

The Commission received more than 700 comments[9] in response to the NPRM from individuals, industry groups, consumer organizations, and members of Congress. Commenters generally supported the rule,[10] stating it provided much-needed clarity[11] and would deter bad actors[12] without imposing new burdens on marketers.[13] Most commenters agreed the rule should incorporate the longstanding ''all or virtually all'' standard.[14] Additionally, the majority of commenters addressing the issue agreed the proposed rule represented a proper exercise of the Commission's rulemaking authority under Section 45a.

Although the Commission received mostly supportive comments, some commenters raised concerns with the Commission's proposal to codify the ''all or virtually all'' guidance through rulemaking, suggesting the standard may not reflect current consumer perception. Others proposed specific additions to the rule, including additional definitions, guidance on implied claims, and an effective date. Members of the beef and shrimp industries requested specific guidance for their industries. A few stakeholders proposed changes outside the scope of the FTC's Section 45a rulemaking authority. For example, some commenters proposed making country-of-origin labeling mandatory in all instances. Finally, some raised miscellaneous concerns about particular businesses' practices or claims.[15] As discussed below, these comments do not provide a compelling basis to change the substantive requirements of the rule proposed in the NPRM.

A. Rulemaking Authority Regarding Mail Order Advertising

Eleven stakeholders filed comments addressing the FTC's rulemaking authority under Section 45a, with the majority agreeing the proposed rule is consistent with that grant of authority.[16] As described in Section I, Section 45a authorizes the Commission ''[to] issue rules pursuant to section 553 of title 5 [of the U.S.C.]'' to govern the use of '' 'Made in the U.S.A.' or 'Made in America' label[s], or the equivalent thereof'' when a person ''introduces, delivers for introduction, sells, advertises, or offers for sale [a product] in commerce.'' The statute provides such labels must be ''consistent with decisions and orders of the Federal Trade Commission issued pursuant to [Section 5 of the FTC Act].''[17]

1. Comments

Eleven commenters addressed the Commission's authority under Section 45a. The majority asserted the proposed rule was within the scope of Section 45a's grant of rulemaking authority, and the proposed rule appropriately covered labels in mail order (electronic) advertising.[18] For example, *TINA.org* argued the Commission properly interpreted Section 45a as authorizing coverage of electronic labels because Section 45a does not limit the term ''labels'' to physical labels, and physical and digital labels are ''functionally equivalent'' in terms of providing product information to consumers.[19] *TINA.org* further noted ''[w]hen Congress seeks to limit 'labels' to the physical, it knows how . . . [and here] the statute makes no attempt to restrict the definition or distinguish physical labels from digital labels.''[20] Moreover, *TINA.org* explained, limiting the proposed rule to physical labels without addressing electronic labels

(Dec. 2, 1997). The Commission first used the ''all or virtually all'' language in *Hyde Athletic Industries,* File No. 922–3236 (consent agreement accepted subject to public comment Sept. 20, 1994) and *New Balance Athletic Shoes, Inc.,* Docket 9268 (complaint issued Sept. 20, 1994). In the 1997 **Federal Register** Notice requesting public comment on Proposed Guides for the Use of U.S. Origin Claims, the Commission explained the ''all or virtually all'' standard merely rearticulated longstanding principles governing MUSA claims. FTC, *Request for Public Comment on Proposed Guides for the use of U.S. Origin Claims,* 62 FR 25020 (May 7, 1997). The Commission has routinely applied this standard in its MUSA Decisions and Orders since 1997. *See* Compilation of cases at *https://www.ftc.gov/tips-advice/business-center/legal-resources?type=case&field_consumer_protection_topics_tid=234.*

[7] *See, e.g.,* Textile Fiber Products Identification Act (15 U.S.C. 70b); Wool Products Labeling Act (15 U.S.C. 68); American Automobile Labeling Act (49 U.S.C. 32304); Agricultural Marketing Act (7 U.S.C. 1638a); Buy American Act (41 U.S.C. 10a–10c); and implementing rules.

[8] As discussed in Section III of this Notice, the Commission has added a provision (section 323.6) in the final Rule related to petitions for exemption.

[9] Comments appear on FTC Docket FTC–2020–0056 and are available at *www.regulations.gov.* For purposes of this Notice, all comments are referred to by their short docket number (*e.g.,* ''1''), rather than long docket number (*e.g.,* ''FTC–2020–0056–0001'').

[10] *See, e.g.,* Senators Sherrod Brown, Tammy Baldwin, Christopher Murphy, and Richard Blumenthal (''Senators'') (373); North American Insulation Manufacturers (631); *see also* Letter from Representative Frank Pallone, Jr., Chairman, and Representative Jan Schakowsky, Chair, Subcommittee on Consumer Protection and Commerce, U.S. House of Representatives (Oct. 15, 2020). *But see* Retail Industry Leaders Association (''RILA'') (570) (arguing low levels of enforcement activity suggest codifying the guidance into a rule is unnecessary).

[11] UIUC Accounting Group A13 (5); Delphine MUREKATETE, iMSA Program, University of Illinois at Urbana Champaign (21); Anonymous Anonymous (24); UIUC–BADM 403–A02 (25); Nirma Ramirez (26); Jaymee Westover (358); Joy Winzerling (419); United Steelworkers (526); Anonymous Anonymous (533); R–CALF USA (588).

[12] Chris Jay Hoofnagle (613) (advocating use of civil penalties to deter MUSA fraud).

[13] UIUC Accounting Group A13 (5); Chris Posey (7); Family Farm Action Alliance (543).

[14] See, *e.g.,* United Steelworkers (526); Alliance for American Manufacturing (''AAM'') (611).

[15] Honey Boynton (32); Holly Mastromatto (33); Doug Thompson (123); Lucilla Rinehimer (702).

[16] UIUC Accounting Group A13 (5); UIUC Group A06 Anonymous (22); Truth in Advertising, Inc. (''*TINA.org*'') (369); Senators (373); Southern Shrimp Alliance (380); Council for Responsible Nutrition (''CRN'') (569); Personal Care Products Council (''PCPC'') (587); Anonymous Anonymous (592); Alliance for AAM (611); National Association of Manufacturers (''NAM'') (623); Coalition for a Prosperous America (625).

[17] 15 U.S.C. 45a.

[18] UIUC Accounting Group A13 (50); UIUC Group A06 (22); *TINA.org* (369); Senators (373); Southern Shrimp Alliance (380); AAM (611); Coalition for a Prosperous America (625).

[19] *TINA.org* (369) (emphasis in original) (also arguing the Commission may draw support from the dictionary definition of ''labels,'' which includes digital labels).

[20] Id. at 2. *TINA.org* also suggested ''courts regularly interpret laws expansively in the face of technological innovation,'' and the ''possibility that Congress may not have anticipated the application of the term label to apply online does not change [the] outcome.''

would ''leave American consumers unprotected.'' [21] Accordingly, *TINA.org* concluded, ''[a]s a matter of statutory interpretation, the Commission *can* regulate digital MUSA labels. As a matter of consumer protection, the Commission *ought* to regulate digital MUSA labels.'' [22]

The Southern Shrimp Alliance (''SSA'') and AAM agreed, arguing Congress made an affirmative decision to defer to the FTC when it removed a definition of ''labels'' that appeared in initial drafts of the legislation.[23] Moreover, AAM argued the text of Section 45a specifically authorizes coverage of electronic labels because of the words ''the equivalent thereof'' in the phrase authorizing coverage of products introduced into commerce ''with a 'Made in the U.S.A.' or 'Made in America' label, or the equivalent thereof.'' [24] AAM argued the phrase refers to the ''equivalent'' of introducing a product into commerce with a label, *i.e.,* making a claim on a website.[25]

In contrast, four commenters asserted the proposed rule exceeds the scope of the Commission's rulemaking authority under Section 45a.[26] CRN and PCPC argued Section 45a's consistent use of the term ''label'' demonstrates Congress's intent to authorize a rule limited to labels on products, not one that would cover advertising generally.[27] An anonymous commenter argued Section 45a does not provide authority to regulate claims in mail order advertising materials as proposed in Section 323.3, so the proposed rule ''should be revised to only cover labels on products.'' [28] Should the FTC finalize a rule that purports to cover more than labels on products, NAM warned, the result could be ''lengthy litigation [, which would leave] manufacturers and consumers alike . . . without clear guidance at a time when manufacturers need as much regulatory certainty as possible.'' [29] Given these concerns over the scope of the Commission's rulemaking authority, Shirley Boyd stated the Commission should proceed pursuant to the Magnuson Moss Warranty-Federal Trade Commission Improvements Act to issue a broader rule covering MUSA advertising generally.[30]

2. Analysis

After reviewing the comments, the Commission has concluded proposed Section 323.3 falls within the scope of its authority under Section 45a. As described above, Section 45a authorizes the Commission to issue rules to govern labeling of products as ''Made in the U.S.A.'' or ''Made in America,'' or the equivalent thereof. Section 45a specifies: ''[t]o the extent any person introduces, delivers for introduction, sells, advertises, or offers for sale in commerce a product with a 'Made in the U.S.A.' or 'Made in America' label, or the equivalent thereof, in order to represent that such product was in whole or substantial part of domestic origin, such label shall be consistent with decisions and orders of the Federal Trade Commission.'' The Commission is empowered to ensure such labels are consistent with decisions and orders of the Federal Trade Commission defining unfair or deceptive acts or practices under Section 5. The Commission agrees with SSA and AAM that Congress's removal of a definition of ''label'' from Section 45a before its passage strongly suggests Congress deliberately chose to defer to the FTC's interpretation of the term in the context of MUSA claims.[31] Moreover, the Commission agrees with *TINA.org* that digital and physical labels are functionally equivalent, especially with the growth of e-commerce, and a failure to cover labels in print or electronic mail order catalogs or promotional materials would leave consumers without much-needed protection.[32]

The final rule does not cover MUSA claims in all advertising. Instead, as Section 323.3 explains, the rule covers *labels* appearing in all contexts, whether, for example, they appear on product packaging or online. With this clarification, the Commission adopts Section 323.3 as proposed.

B. ''All or Virtually All'' Standard

As described in Section I above, the NPRM proposed to codify the Commission's longstanding interpretation of Section 5's requirements governing substantiation of unqualified MUSA claims. This interpretation was first articulated in Commission cases dating back to the 1940s [33] and was formalized in the 1997 Policy Statement. Specifically, the NPRM proposed to prohibit unqualified MUSA claims on labels unless: (1) Final assembly or processing of the product occurs in the United States, (2) all significant processing that goes into the product occurs in the United States, and (3) all or virtually all ingredients or components of the product are made and sourced in the United States.

Although many commenters, particularly those with interest in food products, supported the decision to incorporate the ''all or virtually all'' guidance, others raised concerns. In particular, commenters questioned whether the ''all or virtually all'' standard represents current consumer understanding of MUSA claims. Some proposed alternative standards for consideration.

After analyzing these comments, as discussed below in Section II.B.3., the Commission has determined it has a reasonable basis to adopt the longstanding ''all or virtually all'' standard, and the rule provides appropriate and clear guidance to marketers.

1. Consumer Perception Testing

Six commenters argued the FTC should conduct new consumer perception testing before codifying the ''all or virtually all'' guidance into a rule.[34] They noted the Commission has not conducted comprehensive testing since the 1990s. CRN explained ''codifying a standard for unqualified U.S.-origin claims that is based on consumer perception data that has not been reanalyzed by the Commission in over 20 years'' is potentially problematic because ''[g]iven significant changes to the global economy, consumer perceptions of U.S.-origin claims are very likely to have changed over time and consumer perception in 1997, and even 2013, could be very different from how consumers perceive U.S.-origin claims today.'' [35] CTA agreed and asserted that proposing to codify the ''all or virtually standard'' without conducting new consumer perception

[21] *Id.* at 5.

[22] *Id.* at 3 (emphasis in original).

[23] Southern Shrimp Alliance (380); AAM (611).

[24] AAM (611). Coalition for a Prosperous America (625) agreed Section 45a's plain language permits coverage of electronic claims (arguing coverage is authorized where a ''substantial part'' of the product is of domestic origin) (citing Section 45a (''To the extent any person introduces, delivers for introduction, sells, advertises, or offers for sale in commerce a product with a 'Made in the U.S.A.' or 'Made in America' label, or the equivalent thereof, in order to represent that such product was in whole or substantial part of domestic origin, such label shall be consistent with decisions and orders of the Federal Trade Commission issued pursuant to section 45 of this title (emphasis added).'')).

[25] AAM (611).

[26] CRN (569); PCPC (587); Anonymous Anonymous (592); NAM (623).

[27] PCPC (587); CRN (569).

[28] Anonymous Anonymous (56).

[29] NAM (623) at 5.

[30] Shirley Boyd (6).

[31] Southern Shrimp Alliance (380); AAM (611).

[32] See *TINA.org* (369).

[33] See, *e.g.,* In re Vulcan Lamp Works, Inc., 32 F.T.C. 7 (1940).

[34] CRN (569); Consumer Technology Association (''CTA'') (579); Global Organization for EPA and DHA Omega-3s (604); American Association of Exporters and Importers (''AAEI'') (605); NAM (623); Pharmavite LLC (695).

[35] CRN (569).

testing ''put the cart before the horse.'' [36] NAM also encouraged the FTC to undertake a comprehensive review similar to the Commission's process in the 1990s before promulgating any rule.[37]

2. Alternative Standards

In addition to requesting the FTC conduct new perception testing, numerous commenters proposed alternatives to the ''all or virtually all'' standard. These proposals, which were based on policy arguments and were not accompanied by supporting consumer perception evidence, fell into two groups. On one hand, more than twenty commenters, mostly individual consumers, suggested unqualified MUSA claims should be limited to products 100% made in the United States. On the other hand, other commenters, mostly manufacturers, argued ''all or virtually all'' is too strict, and by incorporating it into a rule, the FTC could chill unqualified claims, discourage innovation, and harm industries where parts or ingredients are not available in the United States.[38] To address these concerns, this second group of commenters suggested alternatives: (1) Introducing a percentage-of-costs standard; (2) adopting a standard that makes allowances for imported parts or materials not available in the United States; (3) aligning with U.S. Customs and Border Protection's (''CBP'') substantial transformation standard; or (4) adding a safe harbor for ''good faith'' efforts to comply.

i. Percentage-Based Standards

Several commenters argued the Commission should provide marketers greater certainty by promulgating a ''bright line'' rule outlining a specific percentage of manufacturing costs that must be attributable to U.S. costs to substantiate an unqualified claim.[39] For example, NFI suggested the FTC could align the rule with California state law,[40] which permits manufacturers to make unqualified MUSA claims for products with up to 5% of the final wholesale value of the product attributable to articles, units, or parts of the merchandise obtained from outside the USA.[41]

RILA agreed a rule providing a bright-line percentage would help marketers comply, and suggested the FTC consider ''analogous federal regulations that incentivize U.S. manufacturing,'' and incorporate a 70% threshold for unqualified claims.[42] Alternatively, one commenter suggested a rule that would permit an unqualified claim for a product assembled in the United States where more than 50% of its value is based on components of U.S.-origin.[43]

Two representatives of the dietary supplement industry, the Global Organization for EPA and DHA Omega-3s (''GOED'') and Pharmavite LLC, made an alternative percentage-based proposal with different standards for active and inactive ingredients. Specifically, they argued consumers likely interpret an unqualified MUSA claim to mean 100% of a dietary supplement's active ingredients are made and sourced in the United States. They claimed, however, consumers care less about the origin of inactive ingredients. Accordingly, they contended the rule should incorporate a 10% tolerance for foreign-made or sourced inactive ingredients.[44]

ii. Unavailability Exemption

Other commenters argued the rule should allow marketers to make unqualified MUSA claims for products that include imported content only if the imported components are not available in the United States.[45] Some argued there should be a blanket exemption for such content. For example, Bradford White Corporation (''BWC'') suggested the rule broadly allow marketers to exclude foreign parts from the analysis if those parts cannot be ''reasonably sourced'' from a domestic manufacturer.[46] Others agreed the rule should permit unqualified claims for products that contain foreign content that cannot be sourced in the United States, but argued this exemption should be capped at a certain percentage of manufacturing costs. In NAM's view, a rule permitting marketers to incorporate an appropriate percentage of imported components or labor, not otherwise unavailable domestically, ''would give manufacturers clear and predictable rules and play a significant role in helping to encourage manufacturers to increase domestic investments in order to meet an attainable standard.'' [47]

iii. Substantial Transformation Analysis

Several commenters suggested the FTC adopt a ''substantial transformation'' standard for unqualified claims.[48] Three commenters from U.S. trade associations [49] explained harmonizing the FTC's rule with the CBP standard for determining foreign country of origin pursuant to the Tariff Act, 19 U.S.C. 1304, would provide clarity and alleviate the burden on U.S. companies that ''must navigate a number of different country of origin requirements.'' [50] AAFA explained adopting the ''substantial transformation'' standard would result in a ''clear, simple, and easy-to-understand rule.'' [51] The People's Republic of China (''China'') also argued, to avoid uncertainties and bias, the FTC should incorporate CBP's ''change in Tariff Classification'' analysis, as suggested in Article 9 of the World Trade Organization's (''WTO'') Agreement on Rules of Origin.[52]

iv. Good Faith Efforts To Comply

PCPC and RILA recommended the Commission provide safe harbors for two types of good-faith efforts to comply. PCPC, a trade association

[36] CTA (579).

[37] NAM (623).

[38] See, *e.g.,* CTA (579) (arguing the ''all or virtually all'' guidance deters innovation because many electronic product components are only made internationally); Personal Care Products Council (587) (guidance deters manufacturers from using maximum levels of U.S. parts and materials); AAEI (605) (guidance negatively impacts U.S. companies that will not risk making the claim).

[39] National Fisheries Institute (''NFI'') (628); RILA (570); TRAVIS HEDSTROM (600); Acuity Brands (609); NAM (623); American Coatings Association (''ACA'') (666) (stating marketers need guidance on percentage values or other guidance on how to deal with trace components of foreign/unknown origin).

[40] NFI (628).

[41] See Cal. Bus. & Prof. Code § 17533.7 (as revised in 2015).

[42] RILA (570).

[43] TRAVIS HEDSTROM (660).

[44] GOED (604); Pharmavite LLC (695).

[45] The California law makes such an allowance, although it is not unlimited. Specifically, California permits up to 10% (instead of 5%) of costs to be attributable to imported content if that content cannot be made or obtained in the USA for reasons other than cost. Cal. Bus. & Prof. Code § 17533.7.

[46] BWC (622). Indeed, BWC argued, given consumer expectations and current supply chains, rather than analyzing the percentage of costs attributable to U.S. versus foreign costs, it might be more appropriate to analyze the proportion of an entity's overall manufacturing workforce in the U.S. *Id.*

[47] NAM (623). See also Glenda Smith (612) (requesting more detail on how to handle raw materials not capable of being sourced in the USA).

[48] CBP defines ''substantial transformation'' as a manufacturing process that results in a new and different product with a new name, character, and use different from that which existed before. This standard does not take into account the origin of materials or parts. *See* 19 CFR part 134; *Energizer Battery, Inc.* v. *United States,* 190 F. Supp. 3d 1308 (Ct. Int'l Tr. 2016) (holding a substantial transformation occurs when a product emerges from a manufacturing process with a new name, character, and use, and the ''simple assembly'' of a limited number of components does not constitute a substantial transformation).

[49] International Precious Metals Institute, Inc. (''IPMI'') (520); AAEI (605); American Apparel and Footwear Association (''AAFA'') (675).

[50] AAEI (605). See also BWC (622) (raising concerns about increased regulatory burden).

[51] AAFA (675) (also suggesting the FTC ''eliminate'' qualified claims for any products that do not meet the ''substantial transformation'' threshold).

[52] China (699).

representing manufacturers, distributors, and suppliers of personal care products, suggested incorporating a safe harbor for ''good actors who are trying to overcome the difficulties in sourcing domestic components and materials.'' [53] PCPC explained, ''[a] safe harbor provision for unqualified claims would not dilute the purpose of the FTC's goal with this proposed rule—to deter bad actors from making false claims. Rather, such a provision would provide businesses who in good faith make every reasonable effort to make as much of their product as possible in the U.S. the flexibility to comply with any new regulations.'' [54]

Alternatively, RILA suggested that to avoid deterring retailers and marketplaces from offering products with MUSA labels the final rule should ''include an express statement . . . that allows retailers and marketplaces that have exercised reasonable due diligence to rely on documented supplier and vendor certifications to substantiate MUSA labeling claims.'' [55]

3. Analysis

The Commission has concluded it is not necessary to undertake additional consumer perception testing before adopting the proposed Rule. Accordingly, the Commission adopts the ''all or virtually all standard'' to govern unqualified claims as proposed in the NPRM. Although some commenters speculated consumer perception may have shifted over time, or argued the Commission should adopt a new standard for unqualified claims, there is no evidence on the record disputing the Commission's past findings that at least a significant minority of consumers expect a MUSA-advertised product to be ''all or virtually all'' made in the United States. Nor is there evidence suggesting new perception testing would find otherwise.

Indeed, the limited survey evidence submitted in conjunction with the 2019 workshop on MUSA claims suggested consumer perception has remained stable since the 1990s. Specifically, one panelist, Mark Hanna of Richline Group, Inc. submitted a survey, conducted in 2013, which found almost 3 in 5 Americans (57%) agree ''Made in America'' means all parts of a product, including any natural resources it contains, originated in the United States.[56] Additionally, the survey found 33 percent of consumers thought 100 percent of a product must originate in a country for that product to be labeled as ''Made'' in that country.[57] These findings are consistent with the FTC's 1995 survey, which found roughly 30 percent of consumers would be deceived by an unqualified MUSA claim for a product where 70 percent of the cost was incurred in the United States.[58] As Hanna explained during the workshop, ''at least 25% of the consumers were skeptical that if there's something introduced to that finished product other than something that originated in the US now, they didn't think it should be made in the USA.'' [59] Accordingly, the Commission has a reasonable basis to conclude the ''all or virtually all'' standard accurately represents current consumer perception regarding unqualified MUSA claims. Should future consumer research clearly establish the ''all or virtually all'' standard is inapplicable to a specific class of products, entities may petition the Commission for an exemption from the Rule's requirements, as discussed in Section III of this document.

While commenters proposed alternative standards that might promote certain policy goals, the Commission declines to adopt these alternative proposals for the reasons discussed below. Section 45a authorizes the Commission to issue rules to ensure products labeled as ''Made in the U.S.A.,'' or the equivalent thereof, comport with the requirements of Section 5 of the FTC Act that prohibit unfairness or deception. The ''all or virtually all'' standard is designed to prevent consumer deception and, therefore, the Commission declines to: (1) Adopt a bright-line, percentage-based standard; (2) include a broad carve-out for inputs not available in the United States; (3) incorporate CBP's ''substantial transformation'' standard; or (4) provide a safe harbor for good-faith efforts to comply.

First, percentage-based, bright-line rules could allow deceptive unqualified claims in circumstances where the low cost of the foreign input does not correlate to the importance of that input to consumers. For example, the Commission's enforcement experience has established unqualified U.S.-origin claims for watches that incorporate imported movements may mislead consumers because, although the cost of an imported movement is often low relative to the overall cost to manufacture a watch, consumers may place a premium on the origin and quality of a watch movement and consider the failure to disclose the foreign origin of this component to be material to their purchasing decision. Under those circumstances, the foreign movement likely is not a *de minimis* consideration for consumers, and an unqualified U.S.-origin claim for a watch containing an imported movement would likely deceive consumers.[60] The Policy Statement has instructed marketers since the 1990s that the cost of foreign versus U.S. parts and labor is only one factor to consider in determining how material a part may be to consumers.[61] Accordingly, the Commission declines to adopt a percentage-based standard because the ''all or virtually all'' standard is better tailored to prevent unqualified U.S.-origin claims that will mislead consumers in making purchasing decisions. By maintaining this precedent, the rule accounts for the likelihood consumers interpret MUSA claims somewhat differently for different product categories.

Second, the record similarly does not support excluding foreign content unavailable in the United States from the ''all or virtually all'' analysis. Specifically, as described above, consumer perception testing has consistently shown consumers expect products labeled as MUSA to contain no more than a *de minimis* amount of foreign content. There is no evidence this takeaway varies in scenarios where some parts or inputs are not available in the United States. Indeed, the Policy Statement explains unqualified claims for such products could be deceptive, for example, ''if the [nonindigenous] imported material constitutes the whole or essence of the finished product (*e.g.,* the rubber in a rubber ball or the coffee

[53] PCPC (587). Although not specifically advocating for a good-faith claim safe harbor, the Family Farm Action Alliance similarly argued the FTC should continue its practice of counseling inadvertent offenders into compliance (543).

[54] PCPC (587) at 3.

[55] RILA (570).

[56] Commission staff considered this study previously as part of a request for a staff advisory opinion on unqualified MUSA claims for recycled gold jewelry products. See Response to Request for FTC Staff Advisory Opinion (Sept. 9, 2014), *https://www.ftc.gov/system/files/documents/closing_letters/made-usa/140909madeisusajvc.pdf* (declining to provide an opinion stating MUSA claims for recycled jewelry do not deceive consumers based on perception evidence provided by Richline Group).

[57] See also Hanna, Transcript of *Made in USA: An FTC Workshop* (Sept. 26, 2019) (hereinafter, ''MUSA Tr.'') at 14 (study showed ''25% or 30% of [American consumers] really did feel that everything, including the natural resource, including the gold, had to be part of the final product in order to say it was made in the USA'').

[58] 62 FR 25020, 25036.

[59] Hanna, MUSA Tr. at 15.

[60] *See, e.g.,* FTC Staff Closing Letter to Niall Luxury Goods, LLC (Nov. 20, 2015), *available at https://www.ftc.gov/system/files/documents/closing_letters/nid/151120niall_letter.pdf.*

[61] *See* Policy Statement, 62 FR 63756, 63768.

beans in ground coffee).'' [62] However, the flexibility inherent in the ''all or virtually all'' analysis accounts for the possibility a marketer could substantiate an unqualified claim for a product containing nonindigenous raw materials if the manufacturer has evidence demonstrating the specific claim in context does not deceive consumers.[63]

Third, the record also does not support adopting government standards developed for other purposes (*e.g.,* the CBP substantial transformation standard developed for the imposition of tariffs) as part of the rule. Based on its enforcement experience, the Commission is concerned the standards adopted by CBP for purposes of calculating tariffs are not an appropriate fit for the Commission's regulation of MUSA claims on product labels for purposes of consumer disclosure. For example, there is ample evidence consumers care deeply about the source of the components used to manufacture drywall for construction projects. Under a substantial transformation analysis, drywall made wholly of materials from one nation, but substantially transformed in a different country, would be labeled as originating from the country where those materials were ultimately transformed into a final product. Marketers would not need to disclose the origin of the inputs other than labor (information highly material to many consumers). Thus, employing such a standard would in some cases conflict with the Rule's purpose of ensuring consumers have the material information necessary to make informed purchasing decisions.

Finally, the rule does not include an explicit carve-out for businesses that act in good faith. Courts have long held good faith is not a defense for a violation of Section 5 of the FTC Act,[64] and the Commission intends to enforce the rule consistent with this precedent. Violative claims made in good faith can still deceive and cause significant harm to consumers. However, the FTC clarifies it will continue to: (1) Advise marketers that, if provided in good faith, marketers can rely on information from suppliers about the domestic content in the parts, components, and other elements they produce; [65] (2) generally conserve enforcement resources for intentional, repeated, or egregious offenders; and (3) provide informal staff counseling where appropriate.

C. Requests for Additional Definitions and Other Clarifications

The Commission received several comments arguing the proposed Rule was unclear or provided insufficient guidance for marketers. To remedy these asserted problems, several commenters urged the FTC to add definitions for particular terms, including ''all or virtually all'' and ''significant processing.'' Other commenters expressed concern the Rule was not sufficiently clear about the range of claims it would cover, suggesting the FTC list additional synonyms for ''Made in USA'' to which the rule would apply. Finally, others requested a delayed effective date to allow marketers to update materials and come into compliance.

1. Definitions

More than twenty commenters recommended adding definitions or providing more information to clarify the rule. Without definitions, the commenters feared marketers would ''lack clear guidance for verifying MUSA claims'' and thus ''may be deterred from'' making them altogether.[66] Some of these commenters offered clarifying edits or proposed definitions, often as fallback positions to their main arguments advocating alternative standards entirely.[67]

In particular, in addition to commenters who recommended specifying percentage thresholds for ''all or virtually all,'' several commenters requested the Commission generally define the phrase, without providing specific information on what that definition should include (*e.g.,* factors considered, etc.).[68] As AAEI elaborated: ''One of the FTC's stated reasons for this proposed rulemaking is to 'provide more certainty to marketers about the standard for making unqualified claims on product labels.' Yet, the proposed 'all or virtually all' standard does not provide that certainty . . . It simply codifies the FTC's already existing ambiguous standards.'' [69] Two commenters specifically asked the Commission to incorporate information on whether marketers should consider the origin of product packaging into such a definition.[70]

Similarly, three commenters requested the Commission define ''significant processing.'' [71] As Pacific Coast Producers explained, the ''significant processing'' and ''all or virtually all'' ''terms have always been ambiguous, and the proposed rule does not help to remove the ambiguity or provide any meaningful guidance to industry.'' [72]

Finally, more than thirty commenters, primarily representing the domestic shrimp industry, argued the Commission should clarify that the definitions of ''mail order catalog'' and ''mail order promotional material'' include restaurant menus. As the Louisiana Shrimp Association (''LSA'') explained, ''inappropriate practices by some restaurants in offering menu items that falsely indicate to customers that imported shrimp is domestic, such as 'Gulf Shrimp'. . . not only confuse consumers, but fatally undermine the marketing efforts of restaurants that do carry domestic shrimp.'' [73] To solve this problem, SSA urged the Commission to ''exercise jurisdiction over 'Made in U.S.A.' statements on restaurant menus, as a form of 'Mail order promotional material' or 'mail order catalog.' '' [74]

2. Covered Claims

Several commenters suggested the Rule was not sufficiently clear about which U.S.-origin claims it covers. In particular, commenters requested a longer list of claims the Commission considers equivalent to ''Made in USA,'' as well as a specific statement that the Rule covers implied claims.

One commenter suggested adding ''constructed,'' ''fabricated,'' and ''assembled'' to the list.[75] Another

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[62] *Id.* at 63769 n.117.

[63] The Policy Statement explains in some cases ''where [a raw] material is not found or grown in the United States [and that raw material does not constitute the whole or essence of the finished product], consumers are likely to understand that a 'Made in USA' claim on a product that incorporates such materials (*e.g.,* vanilla ice cream that uses vanilla beans, which, the Commission understands, are not grown in the United States) means that all or virtually all of the product, except for those materials not available here, originated in the United States.'' *Id.* The Policy Statement provides that this guidance applies only to raw materials, not manufactured inputs.

[64] *See, e.g., FTC* v. *World Travel Vacation Brokers, Inc.,* 861 F.2d 1020, 1029 (7th Cir. 1988).

[65] *See* FTC, ''Complying with the Made in USA Standard,'' at 7–8 (Dec. 1998), *available at https://www.ftc.gov/system/files/documents/plain-language/bus03-complying-made-usa-standard.pdf* (also providing an example of a certification a marketer could request from a supplier that generally would constitute an acceptable basis for determining the appropriate country-of-origin designation for a product).

[66] RILA (570).

[67] *E.g.,* AAEI (605) (advocating adoption of the ''substantial transformation'' standard).

[68] See, *e.g.,* Shirley Boyd (6); Pacific Coast Producers (27); RILA (570); Vietnam (577); AAEI (605); NFI (628); ACA (666); AAFA (675).

[69] AAEI (605).

[70] Deontae Lafayette (20); Jaymee Westover (358).

[71] Shirley Boyd (6); Pacific Coast Producers (27); RILA (570).

[72] Pacific Coast Producers (27).

[73] LSA (404).

[74] SSA (380) (further explaining menus should fall under this definition because they are used in the direct sale or offer for sale of a product, are disseminated in print or can be delivered by electronic means, and are solely disseminated to solicit the purchase of a product).

[75] Frost Brown Todd LLC (522).

proposed ''processed,'' ''fabricated,'' and ''packaged.'' [76] Finally, one commenter suggested, to deter unscrupulous marketers effectively, the list should include claims that products are ''Distributed by:'' a company name followed by a U.S. address.[77]

Several commenters also asked the Commission to clarify that the Rule covers implied claims.[78] As AAM explained, ''the use of iconography, such as the American flag, used in the promotion of products should also be considered for its potential to evoke the positive qualities consumers associate with 'Made in USA,' as well as the prospect of such iconography being used in a deceptive manner.'' [79]

3. Effective Date

Finally, two commenters requested the FTC provide an extended compliance period before the rule's effective date. Specifically, ACA and McKenna Walsh argued companies would need time to come into compliance with the Rule. In their view, the FTC should delay implementation to give companies the opportunity to generate new marketing materials and run out old stock.[80]

4. Analysis

After analyzing the comments, the Commission finds the rule and its coverage clear on its face, with sufficient flexibility to address a changing marketplace. Therefore, as discussed further below, the Commission issues the rule without additional definitions or clarifications, or a delayed effective date.[81]

i. Definitions

The Commission declines to adopt definitions of ''all or virtually all'' and ''significant processing,'' or to expand the existing definition of ''mail order catalog'' or ''mail order promotional material.'' The Commission has issued extensive guidance to help marketers understand the ''all or virtually all'' standard. As the Policy Statement explains, ''A product that is all or virtually all made in the United States will ordinarily be one in which all significant parts and processing that go into the product are of U.S. origin.'' In other words, where a product is labeled or otherwise advertised with an unqualified claim, it should contain only a *de minimis,* or negligible, amount of foreign content. Although there is no single ''bright line'' to establish when a product is or is not ''all or virtually all'' made in the United States, there are a number of factors to consider in making this determination. First, in order for a product to be considered ''all or virtually all'' made in the United States, the final assembly or processing of the product must take place in the United States. Beyond this minimum threshold, the Commission will consider other factors, including but not limited to the portion of the product's total manufacturing costs attributable to U.S. parts and processing; how far removed from the finished product any foreign content is; and the importance of the foreign content to the form or function of the product. Accordingly, the Commission's existing guidance and enforcement documents, including the Policy Statement, decisions and orders enforcing the ''all or virtually all'' standard, and staff closing letters, together provide ample guidance to marketers.

As discussed above in Section II.B.3., ''all or virtually all'' and ''significant processing'' intentionally incorporate flexibility to allow marketers to substantiate their claims consistent with consumer perception of their particular products. The Commission's enforcement program has long recognized the need for such flexibility as described in the Policy Statement, which was based on the Commission's decisions and orders. The Commission has continued to follow this flexible approach, and incorporated it into its post-Policy Statement decisions and orders. Adding specific definitions for these terms may increase clarity for marketers in the short term because the rule covers so many product categories across a range of circumstances, but the Commission has determined adding further specificity also increases the risk the rule would chill certain non-deceptive claims. Marketers seeking additional guidance may look to the Policy Statement, decisions and orders, and other Commission guidance to understand how the FTC has analyzed ''all or virtually all'' and ''significant processing.'' [82]

The Commission also declines to adopt a definition of ''mail order catalog'' or ''mail order promotional material'' that specifically incorporates restaurant menus. The Commission has not reviewed perception evidence regarding consumer understanding of MUSA claims on restaurant menus, and therefore declines to define such claims as covered ''labels'' for purposes of Section 45a.

ii. Covered Claims

The Commission also concludes it is unnecessary to revise the definitions to provide an expanded list of synonyms for the term ''Made in U.S.A.,'' or provide further clarification the rule covers implied claims. Section 323.1 as proposed already defines ''Made in U.S.A.'' as ''*any unqualified representation, express or implied,* that a product or service, or a specified component thereof, is of U.S. origin, including, but not limited to, a representation that such product or service is 'made,' 'manufactured,' 'built,' 'produced,' 'created,' or 'crafted' in the United States or in America, *or any other unqualified U.S.-origin claim*'' (emphasis added).[83]

The list of equivalents to ''Made in USA'' set forth in Section 323.1 is not exhaustive because the means of communicating U.S. origin are too numerous to list. The Commission believes the non-exhaustive list of examples given provide sufficient guidance on the scope of covered express and implied claims. These examples are based on the Commission's decades of enforcement experience addressing MUSA claims. For other claims, the Commission will analyze them in context, including the terms used, their prominence, and their proximity to images and other text.

iii. Effective Date

Lastly, the Commission declines to delay the rule's effective date. As discussed above in Section I, the rule codifies the FTC's longstanding guidance on MUSA claims. The FTC has incorporated the ''all or virtually all'' standard into decisions and orders and guidance for industry and the public since the 1990s.[84] Because the rule merely codifies these longstanding enforcement principles and imposes no new requirements on marketers, the Commission concludes a delayed effective date is unnecessary.

[76] R–CALF USA (588).

[77] Salvatore J. Versaggi (496).

[78] See, *e.g.,* Shirley Boyd (6); Power Planter Inc. (325); AAM (611); American Shrimp Processors Association (''ASPA'') (633).

[79] AAM (611).

[80] ACA (666); McKenna Walsh (581).

[81] As discussed in Section III, the Final Rule contains a provision clarifying that, in appropriate circumstances, covered entities may petition the Commission for an exemption from the Rule's requirements.

[82] See Policy Statement, 62 FR 63756, 63768 (Dec. 2, 1997).

[83] 16 CFR 323.1.

[84] *See generally https://www.ftc.gov/tips-advice/business-center/advertising-and-marketing/made-in-usa.* The Commission has explained that prior to the 1990s, this standard was described as the ''wholly domestic'' standard, and both ''wholly domestic'' and ''all or virtually all'' refer to the concept that ''unqualified claims of domestic origin have been treated as claims that the product was in all but *de minimis* amounts made in the United States.'' 62 FR 63756 (Dec. 2, 1997).

D. Guidance for Specific Industries

Some commenters requested tailored guidance for specific industries. Specifically, representatives of the beef and shrimp industries requested guidance on whether the Rule would apply to their products, and specific guidance on how to apply ''all or virtually all'' in these contexts.

1. Beef

The Commission received more than 450 comments urging the Commission to clarify that the rule applies to beef products. These stakeholders, primarily U.S. ranchers and industry groups representing domestic ranchers, generally supported the rule and argued it should supersede United States Department of Agriculture (''USDA'') guidance on using ''Product of USA'' claims on beef product labels. Although they acknowledged the USDA's longstanding authority over beef labeling, they expressed concern USDA's Food Safety Inspection Service (''FSIS'') Food Standards and Labeling Policy Book currently authorizes producers to place ''Product of USA'' labels on beef products processed in the USA but comprised of cattle born, raised, and slaughtered overseas. These commenters argued such labels deceive consumers, and ''put U.S. family farmers and ranchers at an unfair disadvantage in the marketplace, because they are not able to differentiate their domestically produced meat and meat products from foreign produced meat and meat products.'' [85] Accordingly, they argued the ''all or virtually all'' standard should apply to beef products, and beef products should only bear a ''Product of USA'' label if they derive from animals born, raised, slaughtered, and processed in the United States.[86]

In contrast, five commenters argued Congress granted the USDA generally, and the FSIS specifically, authority to address country-of-origin labeling for meat and meat food products. Therefore, they argued, the FTC should defer to the USDA on this issue.[87] The North American Meat Institute and the Meat Importers' Council of America submitted a joint comment stating beef commenters' concerns ''are misplaced because they fail to recognize that the [USDA's FSIS] has primary jurisdiction over the meat and poultry labeling through the authority provided in the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA).'' [88] The Montana Stockgrowers Association agreed, explaining that even though it ''supports USA beef as being defined as born, raised, harvested, and processed in the USA . . . [its members] think the [USDA] should be the lead agency to address enforcement of labels that include all meat products.'' [89] Moreover, some commenters raised concerns applying the FTC's rule to beef products could lead to challenges in, or even sanctions by, the WTO, given past proceedings relating to beef labeling.[90]

2. Shrimp

The Commission also received dozens of comments from representatives of the domestic shrimp industry. Most of these expressed general support for the proposed rule, and recommended the FTC allow MUSA labels only for shrimp caught, harvested, and processed in the United States.

Although they expressed enthusiasm for the potential application of the proposed MUSA rule's ''all or virtually all'' standard in shrimp labeling, commenters acknowledged that USDA's Country of Origin Labeling (''COOL'') regulations [91] have primary authority in this space. The COOL regulations require ''retail establishments'' to provide country-of-origin information for wild and farm-raised fish and shellfish,[92] and incorporate specific standards under which marketers can label shrimp as MUSA.[93] However, commenters identified a possible gap in regulatory coverage, explaining that, pursuant to USDA Agricultural Marketing Service (''AMS'') regulations governing country-of-origin labeling for fish and shellfish, COOL does not apply to processed shrimp products, including breaded or marinated shrimp.[94] In addition, as described above in Section II.C.1., these commenters noted that USDA COOL regulations do not apply to claims regarding shrimp or shrimp products on restaurant menus.[95] Thus, these commenters urged the FTC to ''us[e] its authority to enforce the MUSA rule [with respect to these categories of shrimp products, thereby] . . . filling a void in federal labeling accountability and providing certainty to the seafood market during this time of widespread economic instability.'' [96]

3. Analysis

The FTC shares jurisdiction over country-of-origin claims for agricultural products with the USDA and, in some instances, the Food and Drug Administration (''FDA''). USDA and FDA have primary jurisdiction over labeling issues for the food products within their purview.[97] Section 45a specifically provides that ''Nothing in this section shall preclude the application of other provisions of law relating to labeling.'' [98] Accordingly, Section 323.5(a) of this rule makes clear that the rule does not supersede, alter, or affect the application of any other federal statute or regulation relating to country-of-origin labeling requirements, including but not limited to regulations issued under the FMIA, 21 U.S.C. 601 *et seq.;* the Poultry Products Inspection Act, 21 U.S.C. 451 *et seq.;* or the Egg Products Inspection Act, 21 U.S.C. 1031 *et seq.*

Congress has granted the USDA's FSIS specific authority to regulate agricultural products, including, among others, beef and chicken products. The USDA regulates labels on meat products sold at retail pursuant to the FMIA, which prohibits misleading labels.[99] Although FSIS's Policy Book has permitted voluntary claims of ''Product of USA'' for imported products under FSIS's jurisdiction, including beef products, processed in the USA, FSIS recently explained this guidance ''may be misleading to consumers and may not meet consumer expectations of what 'Product of USA' signifies.'' [100] Accordingly, the USDA announced plans to initiate a rulemaking to alleviate any potential confusion in the

[85] North Dakota Farmers Union (412).

[86] The Commission also received more than 150 comments stating country-of-origin labeling should be mandatory for beef products.

[87] See, *e.g.,* Mexico's National Confederation of Livestock Organizations (431); North American Meat Institute and Meat Importers' Council of America (508); National Cattlemen's Beef Association (589); Montana Stockgrowers Association (635); Embassy of Canada (637). Some of these stakeholders argued the FTC should specifically exempt meat labeling from the Rule's coverage.

[88] North American Meat Institute and the Meat Importers' Council of America (508). *See also* National Cattlemen's Beef Association (589) (''remind[ing] FTC that the Federal Meat Inspection Act of 1906 (21 U.S.C. 601 *et seq.*) grants the U.S. Department of Agriculture (USDA) primary jurisdiction over all meat food product oversight activities, including the approval and verification of geographic and origin labeling claims.'').

[89] Montana Stockgrowers Association (635).

[90] Mexico's National Confederation of Livestock Organizations (431); National Cattlemen's Beef Association (589); see also Embassy of Canada (637) (stating, in light of 2015 WTO proceedings, the Government of Canada ''will continue to closely monitor the development of the proposed'' Rule).

[91] 7 CFR part 60.

[92] 7 U.S.C. 1638(1).

[93] 7 CFR 60.128.

[94] ASPA (633) (citing 7 CFR 60.119).

[95] See, *e.g.,* Southern Shrimp Alliance (380).

[96] ASPA (633), at 2.

[97] See Memorandum of Understanding between Federal Trade Commission and the Food and Drug Administration, 36 FR 18539 (Sept. 16, 1971).

[98] 15 U.S.C. 45a.

[99] 21 U.S.C. 601(n)(1); 9 CFR 317.8(a) (prohibiting labels that convey ''any false indication of origin'').

[100] *See* R. Edelstein Letter to E. Drake (Mar. 26, 2020).

marketplace.[101] As that proceeding unfolds, the Commission remains committed to engaging with the USDA to ensure American consumers receive truthful and accurate information about the beef products they buy.

Under its COOL regulations, USDA's AMS has primary authority over country-of-origin labels for most fish and shellfish products.[102] Because Section 45a's general grant of rulemaking authority does not authorize the Commission to issue regulations that would preclude the application of existing statutes and regulations addressing agricultural product labeling, the FTC defers to AMS's regulatory scheme for COOL for fish and shellfish. Section 323.5 makes clear the rule does not supersede, alter, or affect any other federal statute or regulation relating to country-of-origin labeling requirements. However, to the extent certain, limited categories of agricultural products fall outside USDA's jurisdiction, the Commission will analyze claims on a case-by-case basis and consult with other agencies as appropriate.[103]

E. Other Proposals

Some commenters proposed a series of other amendments, arguing variously that the Rule should preempt state law entirely; [104] cover MUSA advertising generally; [105] make country-of-origin labeling mandatory for all products; [106] incorporate provisions relating to qualified U.S.-origin claims; [107] and include language specifically correlating penalties to firm sizes.[108] The Commission declines to adopt these changes, which are inconsistent with its rulemaking mandate under Section 45a. As discussed above, Section 45a grants the Commission authority to issue rules to prevent unfair or deceptive acts or practices relating to MUSA labeling. Specifically, Section 45a authorizes the Commission to issue rules to require MUSA labeling to ''be consistent with decisions and orders of the Federal Trade Commission issued pursuant to [Section 5 of the FTC Act].'' The FTC may seek civil penalties for violations of such rules.

1. Preemption

The Commission intends to preempt state statutes or regulations that are inconsistent with the Commission's rules only to the extent of the inconsistency.[109] When it enacted Section 45a, Congress declined to expressly preempt state regulation or otherwise demonstrate a clear intent for federal law to occupy the field of regulation in question.[110] Accordingly, Section 323.5 of the Rule preempts a state statute, regulation, order, or interpretation ''to the extent that such statute, regulation, order, or interpretation is inconsistent with the provisions of this part, and then only to the extent of the inconsistency.'' Moreover, the rule makes clear that a state statute, regulation, order, or interpretation is not inconsistent with the rule if the protection such statute, regulation, order, or interpretation affords any consumer is greater than the protection provided by the rule.

2. MUSA Advertising Generally

Some commenters encouraged the Commission to expand the proposed rule to cover all advertising that includes any U.S.-origin claim, rather than focusing as proposed on MUSA labeling.[111] Section 45a, however, is directed at labels on products declaring that a product is ''in whole or substantial part of domestic origin'' and thus may be labeled ''Made in the U.S.A.,'' or the equivalent thereof. The statute does not explicitly address general advertising claims beyond the context of labeling. Accordingly, in enacting this rule, the Commission has not focused on advertising more generally, but retains the proposed rule's focus on MUSA claims on labels or in mail order or catalog advertising, including in online marketplaces, that depict a product label. However, the FTC's general authority under Sections 5 and 12 of the FTC Act covers advertising, including advertising of qualified and unqualified MUSA claims.[112]

3. Mandatory Country-of-Origin Labeling

Other commenters recommended the Commission make country-of-origin labeling mandatory. For example, the Made in USA Foundation proposed that the Rule should require that all advertisements for specified categories of products, including all products advertised for sale on the internet, disclose the country of origin of the products in a clear and prominent manner.[113] While the Commission acknowledges that many consumers may find such information to be valuable in many circumstances, Section 45a does not authorize the Commission to establish a mandatory country-of-origin labeling scheme. The statute grants the Commission authority to issue rules to ensure that Made in USA claims are not deceptive and are consistent with the Commission's decisions and orders defining unfair or deceptive acts or practices under Section 5. Accordingly, the Commission lacks authority under Section 45a to enact this proposal.

4. Qualified U.S.-Origin Claims

Some commenters also argued that the rule should also address qualified U.S.-origin claims. The United Steelworkers asserted that, ''[a]s firms with global supply chains seek to benefit from the value consumers place in products with American content, we must ensure that qualified claims accurately represent the level of value creation in the United States.'' [114] Section 45a, however, is directed to labels on products declaring that a product is ''in whole or substantial part of domestic origin,'' and therefore the Rule is directed to unqualified claims, rather than more varied qualified claims. Accordingly, the FTC will continue to address deceptive qualified U.S.-origin claims under its general

[101] *Id.*

[102] 7 U.S.C. 1638(1); 7 CFR 60.128.

[103] The FTC notes deceptive claims on restaurant menus appear to be largely a regional issue, and therefore are being addressed through state legislation. *See, e.g.,* La. R.S. § 40:5.5.4 (requiring food service establishments to provide notice to consumers if crawfish or shrimp is imported); La. R.S. § 56:578.14 (''No owner or manager of a restaurant that sells imported crawfish or shrimp shall misrepresent to the public, either verbally, on a menu, or on signs displayed on the premises, that the crawfish or shrimp is domestic.''). FTC staff will continue to monitor this issue.

[104] BWC (622); AAFA (675). Additionally, PCPC (589) argued the Rule should specifically preempt a private right of action. However, two commenters agreed with the section as drafted as a means to ''ensure regulatory certainty and consistency of product U.S. origin labels nationwide.'' RILA (570). See also NAM (623) (recognizing the ''value of utilizing preemption to create a uniform MUSA standard'').

[105] UIUC Accounting Group A13 (5); Shirley Boyd (6); UIUC—BADM 40—A02 (22); Senators (373); United Steelworkers (526); Women Involved in Farm Economics/Pam Potthoff Beef Chairman (672).

[106] The Commission received 30 comments arguing country-of-origin labeling should be mandatory for all products. See, *e.g.,* J R. Brookshire (9). Additionally, six commenters argued specifically in favor of mandatory country-of-origin labeling for all products sold online. See, *e.g.,* Made in USA Foundation (2).

[107] Twelve commenters requested coverage of qualified claims. See, *e.g.,* Shirley Boyd (6); United Steelworkers (526); AAM (611); CPA (625).

[108] Six commenters argued civil penalties should be linked to company size. *See, e.g.,* Chris Posey (7).

[109] *See City of New York* v. *FCC,* 486 U.S. 57, 64 (1988) (''The statutorily authorized regulations of an agency will pre-empt any state or local law that conflicts with such regulations or frustrates the purposes thereof.'').

[110] *See, e.g., Mozilla* v. *FCC,* 940 F.3d 1, 74–75 (D.C. Cir. 2019).

[111] *See, e.g.,* Shirley Boyd (6) (''The FTC's final rules should apply to labeling, advertising and other promotional and marketing materials in addition to labels and mail order catalogs/promotional materials.'').

[112] 15 U.S.C. 45(a), 52.

[113] Made in USA Foundation (2).

[114] United Steelworkers (526).

authority in Section 5 of the FTC Act.[115] Marketers should continue to consult the Policy Statement for guidance on the application of the Commission's Section 5 analysis to such claims including, but not limited to, ''Assembled in USA,'' claims indicating the amount of U.S. content (*e.g.,* ''60% U.S. Content''), claims indicating the parts or materials that are imported (*e.g.,* ''Made in USA from imported leather''), or claims about specific processes or parts (*e.g.,* claims a product is ''designed,'' ''painted,'' or ''written'' in the United States).

5. Civil Penalties

Some commenters argued that larger businesses may not be sufficiently deterred by the current maximum civil penalty amounts for violations of Commission rules and recommended that civil penalties should be increased for larger firms.[116] The Commission lacks authority, however, to establish civil penalty maximums that depart from the levels provided by statute. Civil penalty amounts for violations of the Commission's rules are established by the FTC Act.[117] Nonetheless, the Commission believes that its civil penalty authority generally provides an effective deterrent against rule violations, and notes that civil penalties for violations of a rule are assessed per violation. Moreover, the FTC Act establishes a series of factors for courts to consider in assessing appropriate civil penalty amounts in individual enforcement matters, including ''the degree of culpability, any history of prior such conduct, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.'' [118] To the extent firm size is an appropriate consideration within one or more of these factors, the Commission will take that factor into account in seeking civil penalties.

III. Final Rule

For the reasons described above, the Commission has determined to adopt the substantive provisions of the rule as initially proposed. Specifically, the rule covers labels on products that make unqualified MUSA claims. It codifies the Commission's previous MUSA Decisions and Orders and prohibits marketers from making unqualified MUSA claims on labels unless: (1) Final assembly or processing of the product occurs in the United States, (2) all significant processing that goes into the product occurs in the United States, and (3) all or virtually all ingredients or components of the product are made and sourced in the United States. The rule also covers labels making unqualified MUSA claims appearing in mail order catalogs or mail order advertising.

To avoid confusion or perceived conflict with other country-of-origin labeling laws and regulations, the rule specifies that it does not supersede, alter, or affect any other federal or state statute or regulation relating to country-of-origin labels, except to the extent that a state country-of-origin statute, regulation, order, or interpretation is inconsistent with the rule.

Finally, the Commission has adopted a new Section, 323.6, to address commenter concerns about the applicability of the ''all or virtually all'' standard across product categories. This provision allows marketers and other covered persons to seek full or partial exemptions if they can demonstrate application of the rule's requirements to a particular product or class of product is not necessary to prevent the acts or practices to which the rule relates. The Commission's rules of practice governing petitions for rulemaking provide the procedures for submitting such petitions.[119] Pursuant to this process, interested persons may file relevant consumer perception evidence and data with the Commission. If the Commission deems the petition sufficient to warrant further consideration, it will follow the procedures outlined in Section 1.25 of its rules.

IV. Paperwork Reduction Act

The Paperwork Reduction Act (''PRA''), 44 U.S.C. 3501 *et seq.,* requires federal agencies to seek and obtain Office of Management and Budget (''OMB'') approval before undertaking a collection of information directed to ten or more persons. The Commission has determined that there are no new requirements for information collection associated with this final rule.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires that the Commission provide an Initial Regulatory Flexibility Analysis with a proposed rule, and a Final Regulatory Flexibility Analysis with the final Rule, unless the Commission certifies that the proposed Rule will not have a significant impact on a substantial number of small entities.[120]

The Commission recognizes some affected entities may qualify as small businesses under the relevant thresholds. However, the Commission anticipates that the final Rule will not have the threshold impact on small entities. First, the rule includes no new barriers to making claims, such as reporting or approval requirements. Second, the rule merely codifies standards established in FTC enforcement Decisions and Orders for decades. Therefore, the Rule imposes no new burdens on law-abiding businesses.

Accordingly, the Commission certifies that the final rule will not have a significant economic impact on a substantial number of small businesses. Although the Commission certifies under the RFA that the amendment will not have a significant impact on a substantial number of small entities, the Commission has determined, nonetheless, that it is appropriate to publish a Final Regulatory Flexibility Analysis in order to explain the impact of the amendments on small entities as follows:

A. Description of the Need for and Objectives of the Rule

The Commission proposed the MUSA Labeling Rule for two primary reasons: To strengthen its enforcement program and make it easier for businesses to understand and comply with the law. Specifically, by codifying the existing standards applicable to MUSA claims in a rule as authorized by Congress, the FTC will be able to provide more certainty to marketers about the standard for making unqualified claims on product labels, without imposing any new obligations on market participants. In addition, enactment of the Rule will enhance deterrence by authorizing civil penalties against those making unlawful MUSA claims on product labels.

B. Issues Raised by Comments in Response to the IRFA

The Commission received six comments specifically related to the impact of the Rule on small businesses.[121] Of those six, all

[115] 15 U.S.C. 45(a).

[116] Chris Posey (7).

[117] *See* 15 U.S.C. 45(m)(1)(A) (establishing civil penalties for violations of Commission rules); *see also* 16 CFR 1.98 (stating currently applicable maximum civil penalty amounts).

[118] 15 U.S.C. 45(m)(1)(C).

[119] *See* 16 CFR 1.25.

[120] 5 U.S.C. 603–605.

[121] Anonymous (24) (commenter is unaware of small entities affected by the NPRM); UIUC—BADM 403—A02 (25) (commenter is unaware of small entities affected by the NPRM); Family Farm Action Alliance (543) (anticipating positive economic outcomes for small business entities as a result of the rule); Leo McDonnell (578) (anticipating benefits for small businesses, including ranchers and feeders); McKenna Walsh (581) (stating the Rule will be helpful for small businesses lacking resources to engage in MUSA litigation); Natural

Continued

anticipated the rule would benefit small businesses, with the exception of the Natural Products Association, which argued that the Rule would impose costs on dietary supplement manufacturers that would have to relabel products.[122] The FTC notes that the rule imposes no new requirements on dietary supplement manufacturers, and that products requiring relabeling as a result of the FTC's rule were likely deceptively labeled prior to the Rule's publication. The Chief Counsel for Advocacy of the Small Business Administration did not submit comments.

C. Estimate of Number of Small Entities to Which the Rule Will Apply

The Small Business Administration estimates that in 2018 there were 30.2 million small businesses in the United States. The rule will apply to small businesses that make MUSA claims on product labels. The Commission estimates the rule will not have a significant impact on these small businesses because it does not impose any new obligations on law-abiding businesses; rather, it merely codifies standards established in FTC enforcement Decisions and Orders for decades.

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements, Including Classes of Covered Small Entities and Professional Skills Needed To Comply

The rule imposes no affirmative reporting or recordkeeping requirements. The rule's compliance requirements, consistent with the Policy Statement and longstanding Commission case law, require that marketers may not make unqualified U.S.-origin claims on product labels unless final assembly or processing of the product occurs in the United States, all significant processing that goes into the product occurs in the United States, and all or virtually all ingredients or components of the product are made and sourced in the United States. The small entities potentially covered by the rule will include all such entities that make MUSA claims on product labels. The rule codifies the standard for MUSA claims established in Commission Decisions and Orders, and no new obligations are anticipated.

E. Description of Steps Taken To Minimize Significant Economic Impact, if Any, on Small Entities, Including Alternatives

The Commission sought comment and information on the need, if any, for alternative compliance methods that would reduce the economic impact of the rule on such small entities. Several commenters proposed alternatives to the proposed rule including: (1) Introducing a percentage-of-costs standard; (2) adopting a standard that makes allowances for imported parts or materials not available in the United States; (3) aligning with CBP's substantial transformation standard; or (4) adding a safe harbor for ''good faith'' efforts to comply. Other commenters proposed that the Commission provide for a delayed effective date to allow businesses additional time to comply. As discussed above, the Commission has declined to adopt these alternatives because it believes they would undermine the effectiveness of the rule. In addition, the Natural Products Association recommended the FTC incorporate an example specific to dietary supplements.[123] The Commission has declined to include examples specific to any particular industry in the Rule. The rule codifies the standards articulated in Commission enforcement decisions that have been applicable to MUSA claims for decades. FTC guidance and enforcement decisions provide numerous examples demonstrating how to apply the ''all or virtually all'' standard in a variety of industries. Accordingly, the Commission has concluded that it is unnecessary to provide industry-specific examples in the Rule.

As described previously, the rule merely codifies standards already established in FTC enforcement Decisions and Orders. It does not impose new substantive obligations on businesses that have already been complying with their obligations to avoid deceptive claims under Section 5 of the FTC Act. Under these circumstances, the Commission does not believe a special exemption for small entities or significant compliance alternatives are necessary or appropriate to minimize the compliance burden, if any, on small entities while achieving the intended purposes of the rule. Nonetheless, the Commission has adopted a provision allowing covered persons to petition the Commission for an exemption from the Rule if application of the rule's requirements is not necessary to prevent the acts or practices to which the rule relates.

VI. Other Matters

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs has designated this rule as not a ''major rule,'' as defined by 5 U.S.C. 804(2).

VII. Final Rule Language

List of Subjects in 16 CFR Part 323

Labeling, U.S. origin.

■ For the reasons stated in the preamble, the Federal Trade Commission adds part 323 to subchapter C of title 16 of the Code of Federal Regulations as follows:

PART 323—MADE IN USA LABELING

Sec.
323.1 Definitions.
323.2 Prohibited acts.
323.3 Applicability to mail order advertising.
323.4 Enforcement.
323.5 Relation to Federal and State laws.
323.6 Exemptions.

Authority: 15 U.S.C. 45a.

§ 323.1 Definitions.

As used in this part:

(a) The term *Made in the United States* means any unqualified representation, express or implied, that a product or service, or a specified component thereof, is of U.S. origin, including, but not limited to, a representation that such product or service is ''made,'' ''manufactured,'' ''built,'' ''produced,'' ''created,'' or ''crafted'' in the United States or in America, or any other unqualified U.S.-origin claim.

(b) The terms *mail order catalog* and *mail order promotional material* mean any materials, used in the direct sale or direct offering for sale of any product or service, that are disseminated in print or by electronic means, and that solicit the purchase of such product or service by mail, telephone, electronic mail, or some other method without examining the actual product purchased.

§ 323.2 Prohibited acts.

In connection with promoting or offering for sale any good or service, in or affecting commerce as ''commerce'' is defined in section 4 of the Federal Trade Commission Act, 15 U.S.C. 44, it is an unfair or deceptive act or practice within the meaning of section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. 45(a)(1), to label any product as Made in the United States unless the final assembly or processing of the product occurs in the United States, all significant processing that goes into the product occurs in the United States, and

Products Association (618) (stating the rule would require small dietary supplement businesses to relabel products).

[122] Natural Products Association (618).

[123] *Id.*

all or virtually all ingredients or components of the product are made and sourced in the United States.

§ 323.3 Applicability to mail order advertising.

To the extent that any mail order catalog or mail order promotional material includes a seal, mark, tag, or stamp labeling a product Made in the United States, such label must comply with § 323.2.

§ 323.4 Enforcement.

Any violation of this part shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act, 15 U.S.C. 57a, regarding unfair or deceptive acts or practices.

§ 323.5 Relation to Federal and State laws.

(a) *In general.* This part shall not be construed as superseding, altering, or affecting the application of any other federal law or regulation relating to country-of-origin labeling requirements, including but not limited to the Federal Meat Inspection Act, 21 U.S.C. 601 *et seq.,* the Poultry Products Inspection Act, 21 U.S.C. 451 *et seq.,* and the Egg Products Inspection Act, 21 U.S.C. 1031 *et seq.* In addition, this part shall not be construed as superseding, altering, or affecting any other State statute, regulation, order, or interpretation relating to country-of-origin labeling requirements, except to the extent that such statute, regulation, order, or interpretation is inconsistent with the provisions of this part, and then only to the extent of the inconsistency.

(b) *Greater protection under State law.* For purposes of this section, a State statute, regulation, order, or interpretation is not inconsistent with the provisions of this part if the protection such statute, regulation, order, or interpretation affords any consumer is greater than the protection provided under this part, as determined by the Commission on its own motion or upon the petition of any interested party.

§ 323.6 Exemptions.

Any person to whom this Rule applies may petition the Commission for a partial or full exemption. The Commission may, in response to petitions or on its own authority, issue partial or full exemptions from this part if the Commission finds application of the Rule's requirements is not necessary to prevent the acts or practices to which the Rule relates. The Commission shall resolve petitions using the procedures provided in § 1.25 of this chapter. If appropriate, the Commission may condition such exemptions on compliance with alternative standards or requirements to be prescribed by the Commission.

By direction of the Commission.

April J. Tabor,

Secretary.

The following Appendices will not Appear in the Code of Federal Regulations.

Appendix I: Statement of Commissioner Rohit Chopra Joined by Chair Lina Khan and Commissioner Rebecca Kelly Slaughter

Today, the Commission has voted to adopt a final Made in USA rule. The final rule reflects a substantial number of comments from the public, which overwhelmingly supported this policy change by the Commission. By formally codifying this rule, the Commission has activated a broader range of remedies, including the ability to seek redress, damages, penalties, and other relief from those who lie about a Made in USA label. The rule will especially benefit small businesses that rely on the Made in USA label, but lack the resources to defend themselves from imitators.

Absent this rule, the Commission would be unable to seek this full set of sanctions. Importantly, this is a ''restatement rule,'' which affirms longstanding guidance and legal precedent with respect to Made in USA labels—thereby imposing no new obligations on manufacturers and sellers. Because of the stricter sanctions they trigger, restatement rules such as this one will increase fraud deterrence and ensure that victims can be made whole.

Background on the FTC's Permissive Policy on Made in USA Fraud

For decades, there has been a bipartisan consensus among Commissioners that Made in USA fraud should not be penalized. In my view, this policy posture was in direct contravention of both the letter and spirit of the law Congress enacted.

In 1994, shortly after the North American Free Trade Agreement took effect, Congress enacted legislation to protect the integrity of our national brand by explicitly authorizing the FTC to trigger penalties and other relief for Made in USA fraud, but only after formally codifying a rule.[1] However, the Commission never even proposed one.[2]

Instead, over the past quarter century, Commissioners implemented a highly permissive Made in USA fraud policy, where violators faced essentially no consequences whatsoever. Even in cases of blatant abuse of the Made in USA label, Commissioners routinely voted to allow wrongdoers to settle for no restitution, no forfeiture of ill-gotten gains, no admission or findings of liability, and no notice to victims.[3] In adopting this rule, the Commission acknowledges that this longstanding policy was misguided and agrees that the codification of today's final rule is long overdue.

Noteworthy Provisions of the Final Rule

In 2019, *TINA.org* filed a petition with the Commission to promulgate a rule, given the rampant Made in USA fraud across sectors of the economy. In 2020, the Commission issued a Notice of Proposed Rulemaking and then analyzed a substantial number of comments from producers, consumers, foreign governments, and others.[4] After considering these comments, the Commission has adopted a rule consistent with the authority granted by Congress in 1994. There are several aspects worthy of brief discussion.

First, the Commission has codified the ''all or virtually all'' standard, consistent with the FTC's longstanding Enforcement Policy Statement on U.S. Origin Claims.[5] This standard covers *unqualified* claims. The Commission must protect the public from deception, and the agency declines to adopt alternative approaches, as explained in the final rule.

Second, the Commission has outlined a definition of ''label'' consistent with the Commission's expertise on labeling. While the Commission declines to adopt a definition that includes a list of specific examples, such as restaurant menus, the definition of label does extend beyond labels physically affixed to a product. As described in the rule, other depictions of labels are also covered; in some circumstances, labels appearing online may also be subject to the rule.[6] The Commission declines to cover advertising more broadly, as this is inconsistent with the authority granted by Congress.

Third, there was considerable interest in the rulemaking from farmers, ranchers, and others in the meat and agricultural industry, with the majority of comments arguing in favor of stricter standards. The rule declines to grant an exemption sought by the meatpacking industry, as this would be inconsistent with the Commission's authority prescribed by Congress under the Packers and Stockyards Act.[7] However, contemporaneous with the FTC's vote today, the U.S. Department of Agriculture has announced that it will be conducting a top-to-bottom review of its labeling standard. USDA has previously acknowledged that its

[1] *See* 15 U.S.C. 45a.

[2] *See generally* Statement of Commissioner Rohit Chopra Regarding Activating Civil Penalties for Made in USA Fraud (Apr. 17, 2019), *https://www.ftc.gov/public-statements/2019/04/statement-commissioner-rohit-chopra-regarding-activating-civil-penalties.*

[3] Even without a final rule, Commissioners could have sought more in administrative settlements, given that much of the Made in USA fraud detected by Commission staff met the definition of ''dishonest or fraudulent'' in Section 19 of the FTC Act. 15 U.S.C. 57b. Instead, Commissioners routinely accepted settlements with no meaningful relief at all.

[4] The Commission received over 700 comments in response to its Notice of Proposed Rulemaking on Made in USA labeling. *See FTC Seeks Comments on MUSA Rulemaking, Matter No. P074204,* Docket ID FTC–2020–0056 (July 16, 2020), *https://www.regulations.gov/docket/FTC-2020-0056.*

[5] *See* ''Made in USA'' and Other U.S. Origin Claims, 62 FR 63756 (Dec. 2, 1997).

[6] *See* 16 CFR 323.3.

[7] *See* 7 U.S.C. 227.

''Product of USA'' designation may be deceptive. I am extremely grateful to Secretary Tom Vilsack and USDA staff for the action they are taking.

I hope the USDA will study the FTC's rulemaking record carefully and come to the same conclusion I have: The USDA's Product of USA standard is misleading and distorts competition in the retail market for beef and other products. I also believe that unqualified ''Product of USA'' claims for meat products are only appropriate when the animal was born, raised, and slaughtered in the United States. Given our shared jurisdiction, I expect that the Commission will deepen its partnership with the USDA and closely coordinate on any enforcement proceeding with respect to retail sales of meat and other products.

Conclusion

The Commission appreciates the substantial public interest in protecting the Made in USA brand. The final rule provides substantial benefits to the public by protecting businesses from losing sales to dishonest competitors, and protecting families seeking to purchase American-made goods. More broadly, this long-overdue rule is an important reminder that the Commission must do more to use the authorities explicitly authorized by Congress to protect market participants from fraud and abuse. I thank my fellow Commissioners and members of the Commission staff who contributed to the development of this final rule, as well as members of the public for their thoughtful contributions.

Appendix II: Dissenting Statement of Commissioner Christine S. Wilson

Today the Commission announces a Final Rule with respect to ''Made in USA'' (MUSA) labels. I support the FTC's prosecution of MUSA fraud [1] and supported its consideration of a rule that addresses deceptive MUSA claims on labels, consistent with the authority granted to the FTC by Congress in Section 45a. The Rule announced today, however, exceeds that authority.

Section 45a of the FTC Act—the provision pursuant to which we advance this Rule—authorizes the Commission to issue rules governing MUSA claims on products ''with a 'Made in the U.S.A.' or 'Made in America' label, or the equivalent thereof.'' The provision is titled ''Labels on products'' and repeatedly references ''labels.'' The Commission nonetheless has chosen to promulgate a rule that could be read to cover all advertising, not just labeling.

This Rule is not supported by the plain language of 45a. It is clear Congress intended to extend rulemaking authority over the many potential variations (or ''equivalents'') of ''Made in the U.S.A.'' or ''Made in America'' claims that may be found on labels, not labels and claims made in advertising or marketing. The legislative history for Section 45a supports this interpretation. Specifically, the Conference Report on H.R. 3355 discusses any label characterizing ''a product as 'Made in the U.S.A.' or the equivalent thereof,'' signaling Congress' intent that the statute should cover not just literal invocations of ''Made in the U.S.A.,'' but also equivalents to that claim (*i.e.,* Made in America, American Made, and so on).[2]

The Commission's Rule defines the term far more broadly than any FTC precedent, and in a way that, in my view, exceeds our statutory grant of rulemaking authority.[3] The Rule we issue today will cover not just labels, but all:

> ''materials, used in the direct sale or direct offering for sale of any product or service, that are disseminated in print or by electronic means, and that solicit the purchase of such product or service by mail, telephone, electronic mail, or some other method without examining the actual product purchased'' [4] that include ''a seal, mark, tag, or stamp labeling a product Made in the United States.'' [5]

This language could bring within the scope of the Rule stylized marks in online advertising or paper catalogs and potentially other advertising marks, such as hashtags, that contain MUSA claims.[6]

In the statement I issued when the Commission sought comment on this proposed Rule, I noted that were Congress drafting this statute now, it might choose language to encompass those broader contexts, including online advertising.[7] But there was no plausible argument to be made that the ordinary meaning of the text when enacted in 1994 encompassed online advertising—a period when online shopping was largely unfamiliar to most consumers.[8] As it happens, the Senate recently passed the Country of Origin Labeling Online Act (COOL Act), which prohibits deceptive country-of-origin representations. There Congress did, in fact, specify its application to labeling as well as other forms of online advertising:

> it shall be unlawful to make any false or deceptive representation that a product or its parts or processing are of United States origin in any labeling, advertising, or other promotional materials, or any other form of marketing, including marketing through digital or electronic means in the United States.[9]

This language, in contrast to Section 45a, leaves no doubt it applies to labeling *and* advertising and confirms Congress views ''labeling'' as distinct from ''advertising or other promotional materials,'' including in an online context.

To the extent the Commission seeks to issue a broader prohibition on Made in USA fraud, as Commissioner Chopra asserted when the Commission sought comment on this Rule, it has other options. The Commission can institute a rulemaking proceeding pursuant to Section 18 of the FTC Act. Several commenters suggested that rather than promulgate a limited rule for labeling claims, the Commission should conduct a full proceeding to address all advertising claims.[10] The Commission has not taken this action. The Commission alternatively could work with Congress to effectuate the passage of the COOL Act, which would appear to moot this Rule if enacted.

Accordingly, because this Rule exceeds the scope of authority granted by Congress to the FTC, I dissent. I do not support creatively and expansively interpreting the agency's jurisdiction with respect to rulemaking authority.

The Commission, for more than 80 years, built a comprehensive program to ensure

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[1] I have voted to support every MUSA enforcement action recommended to the Commission by staff since joining the Commission. *See* In the Matter of Gennex Media, LLC No. C–4741 (Apr. 2021), *https://www.ftc.gov/system/files/documents/cases/2023122gennexmediafinalorder.pdf;* In the Matter of Chemence, Inc., *et al.,* No. 4738 (Feb. 2021), *https://www.ftc.gov/system/files/documents/cases/2021-02-10_chemence_admin_order.pdf;* In the Matter of Williams-Sonoma, Inc., No. C–4724 (July 2020), *https://www.ftc.gov/system/files/documents/cases/2023025c4724williamssonomaorder.pdf;* U.S. v. *iSpring Water Systems, LLC, et al.,* No. 1:16–cv–1620–AT (N.D. Ga. 2019); *https://www.ftc.gov/system/files/documents/cases/172_3033_ispring_water_systems_-_stipulated_order.pdf;* In the Matter of Sandpiper Gear of California, Inc. *et al.,* No. 182–3095, *https://www.ftc.gov/enforcement/cases-proceedings/182-3095/sandpiper-california-inc-et-al-matter;* Underground Sports d/b/a Patriot Puck, et al., No. 182–3113 (April 2019), *https://www.ftc.gov/enforcement/cases-proceedings/182-3113/underground-sports-inc-doing-business-patriot-puck-et-al;* In the Matter of Nectar Sleep, LLC, No.182–3038 (Sept. 2018), *https://www.ftc.gov/enforcement/cases-proceedings/182-3038/nectar-brand-llc.*

[2] Conf. Rep. on H.R. 3355 (filed in House (8/21/1994)).

[3] Several commenters echoed the concerns I raised in my statement when the Commission sought comment on this proposed Rule and those raised by Commissioner Phillips. *See* Council for Responsible Nutrition Comment; Personal Care Products Council Comment; National Association of Manufacturers Comment; Anonymous Comment 592.

[4] *See* Part 323.1(b).

[5] *See* Part 323.3.

[6] Guidance on the definition of ''label'' can be found in analogous FTC rules and guides in a variety of contexts. There, ''labels'' repeatedly have been defined as a distinct subcategory of advertising (in other words, not coterminous with advertising)1 and have been described as objects attached to a product or its packaging.1 Given both the statutory guidance Congress provided when it drafted this statute, and precedent concerning the term ''label'' in FTC rules and guides, the Commission has ample landmarks to draft a Rule that falls within its jurisdictional boundaries.

[7] Statement of Commissioner Christine S. Wilson Concurring in Part, Dissenting in Part, Notice of Proposed Rulemaking related to Made in USA Claims (June 22, 2020), *https://www.ftc.gov/system/files/documents/public_statements/1577099/p074204musawilsonstatementrev.pdf.*

[8] Report: Americans Going Online . . . Explosive Growth, Uncertain Destinations, Pew Research Center (Oct. 16, 1995) (noting ''most consumers are still feeling their way through cyberspace . . . [and] have yet to begin purchasing goods and services online''), available at: *https://www.people-press.org/1995/10/16/americans-going-online-explosive-growth-uncertain-destinations/.*

[9] U.S. Innovation and Competition Act, S. 1260, Section 2510, 117th Cong. (June 8, 2021), *https://www.democrats.senate.gov/imo/media/doc/DAV21A48.pdf.*

[10] *See* UIUC Accounting Group Comment; Shirley Boyd Comment; UIUC—BADM Comment; Senators Comment; United Steelworkers Comment; Women Involved in Farm Economics/Pam Potthoff Beef Chairman Comment.

consumers can trust ''Made in the USA'' claims.[11] My colleagues believe the Commission's 80 year MUSA enforcement program was a failure and only a rule and the imposition of penalties will deter false MUSA claims. I believe administrative consents, which were an integral part of this program, can be an appropriate remedy to address deceptive MUSA claims, consistent with the views of bipartisan Commissions during the last 25 years. I support seeking monetary relief where appropriate but cannot support acting outside the constraints of our legislative authority.[12]

I fear as well this Commission's desire to promulgate or utilize our regulatory authority in ways that exceed the boundaries of underlying statutes and corresponding Congressional intent will continue. The Supreme Court's recent decision in *AMG*[13] has eliminated the FTC's ability to seek equitable monetary relief under Section 13(b) of the FTC Act to compensate consumers. Thus, the temptation to test the limits of our remaining sources of authority is strong. I urge my colleagues to pause. Previous FTC forays into areas outside its jurisdictional authority have resulted in swift condemnation from the courts and Congress.[14] Expansive interpretations of our rulemaking authority will not engender confidence among members of Congress who have in the past expressed qualms about the FTC's history of frolics and detours.[15]

[FR Doc. 2021–14610 Filed 7–13–21; 8:45 am]

BILLING CODE 6750–01–P

[11] The FTC has issued over 150 closing letters to companies making misleading U.S.-origin claims. Made in USA Workshop Report at 3 (June 2020). Companies only receive closing letters if they demonstrate to staff they will come into compliance with the FTC's Enforcement Policy Statement on ''Made in the USA.'' The staff's workshop report explains ''companies often produce substantiation for updated claims to the FTC staff, and then present a plan that includes training staff, updating online marketing materials (*e.g.,* company websites and social media platforms), updating hardcopy marketing materials (*e.g.,* product packaging, advertisements, tradeshow materials), and working with dealers, distributors, and third-party retailers to ensure downstream claims are in compliance.'' *Id.* at 3 n.7. The FTC has also settled over 25 enforcement actions, charging that companies refused to come into compliance or engaged in outright fraud. *Id.*

[12] I would note as well that seeking civil penalties for deceptive MUSA claims, as defined under the Commission's Rule, could have adverse market effects. Excessive penalties, divorced from harm, can result in over-deterrence. Importantly, the costs associated with over-deterrence are likely to increase with the expansiveness of the definition of labelling.

[13] *AMG* v. *FTC*, slip op No. 19–508 (Apr. 22, 2021), *https://www.supremecourt.gov/opinions/20pdf/19-508_l6gn.pdf.*

[14] *See* Federal Trade Commission Improvements Act of 1980, Public Law 96–252, 94 Stat. 374 (1980) (reforming the ability of the FTC to promulgate rules by requiring a multi-step process with public comment and subject to Congressional review). This Act also authorized $255 million in funding for the Commission and was the first time since 1977 the agency was funded through the traditional funding process after the backlash from Congress over its rulemaking activities. *See* Kintner, Earl, *et al.,* ''The Effect of the Federal Trade Commission Improvements Act of 1980 on the FTC's Rulemaking and Enforcement Authority,'' 58 Wash. U. Law Rev. 847 (1980); *see also* J. Howard Beagles III and Timothy J. Muris, FTC Consumer Protection at 100: 1970s Redux or Protecting Markets to Protect Consumers?, 83 Geo. Wash. L. Rev. 2157 (2015) (describing the ''disastrous failures'' of the FTC in the 1970s and the 1980s from enforcement and regulatory overreach and quoting Jean Carper, The Backlash at the FTC, Wash. Post, C1 (Feb. 6, 1977) (describing the backlash from Congress at the FTC, after a period of intense rulemaking activity culminating in the agency's being dubbed the ''National Nanny'')); *see also* Alex Propes, Privacy and FTC Rulemaking: A Historical Context, IAB (Nov. 6, 2018) (discussing how the FTC's rulemaking history could be influencing Congressional comfort with vesting the FTC with additional privacy authority), *https://www.iab.com/news/privacy-ftc-rulemaking-authority-a-historical-context/.*

[15] *See* Transcript: Oversight of the Federal Trade Commission: Strengthening Protections for Americans' Privacy and Data Security (May 8, 2019), *available at: https://docs.house.gov/meetings/IF/IF17/20190508/109415/HHRG-116-IF17-Transcript-20190508.pdf.* At this Hearing, Rep. McMorris Rogers stated: ''In various proposals, some groups have called for the FTC to have additional resources and authorities. I remain skeptical of Congress delegating broad authority to the FTC or any agency. However, we must be mindful of the complexities of this issue as well as the lessons learned from previous grants of rulemaking authority to the Commission.'' Transcript at 8–9. Rep. Walden similarly stated: ''it has been a few decades, but there was a time when the FTC, as we heard, was given broad rulemaking authority but stepped past the bounds of what Congress and the public supported. This required further congressional action and new restrictions on the Commission.'' Transcript at 62.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. FDA–2020–F–1289]

Food Additives Permitted in Feed and Drinking Water of Animals; Selenomethionine Hydroxy Analogue

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA, we, or the Agency) is amending the regulations for food additives permitted in feed and drinking water of animals to provide for the safe use of selenomethionine hydroxy analogue as a source of selenium in feed for beef and dairy cattle. This action is in response to a food additive petition filed by Adisseo France S.A.S.

DATES: This rule is effective July 14, 2021. See section V of this document for further information on the filing of objections. Submit either electronic or written objections and requests for a hearing on the final rule by August 13, 2021.

ADDRESSES: You may submit objections and requests for a hearing as follows. Please note that late, untimely filed objections will not be considered. Electronic objections must be submitted on or before August 13, 2021. The *https://www.regulations.gov* electronic filing system will accept objections until 11:59 p.m. Eastern Time at the end of August 13, 2021. Objections received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic objections in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting objections. Objections submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your objection will be made public, you are solely responsible for ensuring that your objection does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your objection, that information will be posted on *https://www.regulations.gov.*
- If you want to submit an objection with confidential information that you do not wish to be made available to the public, submit the objection as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper objections submitted to the Dockets Management Staff, FDA will post your objection, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2020–F–1289 for ''Food Additives Permitted in Feed and Drinking Water

of Animals; Selenomethionine Hydroxy Analogue.'' Received objections, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit an objection with confidential information that you do not wish to be made publicly available, submit your objections only as a written/paper submission. You should submit two copies in total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of objections. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your objections and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper objections received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Chelsea Cerrito, Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl. (HFV–221), Rockville, MD 20855, 240–402–6729, *chelsea.cerrito@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In a document published in the **Federal Register** of May 11, 2020 (85 FR 27692), FDA announced that we had filed a food additive petition (animal use) (FAP 2312) submitted by Adisseo France S.A.S.; Immeuble Antony Parc II, 10 Place du Général de Gaulle, 92160 Antony, France. The petition proposed that the regulations for food additives permitted in feed and drinking water of animals be amended to provide for the safe use of selenomethionine hydroxy analogue as a source of selenium in feed for beef and dairy cattle.

II. Conclusion

FDA concludes that the data establish the safety and utility of selenomethionine hydroxy analogue as a source of selenium in feed for beef and dairy cattle and that the food additive regulations should be amended as set forth in this document.

III. Public Disclosure

In accordance with § 571.1(h) (21 CFR 571.1(h)), the petition and documents we considered and relied upon in reaching our decision to approve the petition will be made available for public disclosure (see **FOR FURTHER INFORMATION CONTACT**). As provided in § 571.1(h), we will delete from the documents any materials that are not available for public disclosure.

IV. Analysis of Environmental Impact

We have determined under 21 CFR 25.32(r) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Objections and Hearing Requests

Any person who will be adversely affected by this regulation may file with the Dockets Management Staff (see **ADDRESSES**) either electronic or written objections. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provision of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection.

List of Subjects in 21 CFR Part 573

Animal feeds, Food additives.

Therefore, 21 CFR part 573 is amended as follows:

PART 573—FOOD ADDITIVES PERMITTED IN FEED AND DRINKING WATER OF ANIMALS

■ 1. The authority citation for part 573 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348.

■ 2. In § 573.920, revise paragraphs (a)(6), (h)(2) and (3) introductory text to read as follows:

§ 573.920 Selenium.

(a) * * *

(6) Paragraphs (b) through (h) of this section provide the currently acceptable levels of selenium supplementation.

* * * * *

(h) * * *

(2) Selenium, as selenomethionine hydroxy analogue, is added to feed as follows:

(i) In complete feed for chickens, turkeys, swine, beef cattle, and dairy cattle at a level not to exceed 0.3 ppm.

(ii) In feed supplements for limit feeding for beef cattle at a level not to exceed an intake of 3 milligrams per head per day.

(iii) In salt-mineral mixtures for free-choice feeding for beef cattle up to 120 parts per million in a mixture for free-choice feeding at a rate not to exceed an intake of 3 milligrams per head per day.

(3) To assure safe use of the additive, in addition to the other information required by the Federal Food, Drug, and Cosmetic Act, the label and labeling of selenomethionine hydroxy analogue in its packaged form shall contain:

* * * * *

Dated: July 7, 2021.

Janet Woodcock,

Acting Commissioner of Food and Drugs.

Dated: July 12, 2021.

Xavier Becerra,

Secretary, Department of Health and Human Services.

[FR Doc. 2021–15072 Filed 7–13–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. FDA–2019–F–5401]

Food Additives Permitted in Feed and Drinking Water of Animals; Guanidinoacetic Acid

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA, we, or the Agency) is amending the regulations for food additives permitted in feed and drinking water of animals to provide for the safe use of guanidinoacetic acid as a precursor of creatine in poultry feeds. This action is in response to a food additive petition filed by Alzchem Trostberg GmbH.

DATES: This rule is effective July 14, 2021. See section V of this document for further information on the filing of objections. Submit either electronic or written objections and requests for a hearing on the final rule by August 13, 2021.

ADDRESSES: You may submit objections and requests for a hearing as follows. Please note that late, untimely filed objections will not be considered. Electronic objections must be submitted on or before August 13, 2021. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of August 13, 2021. Objections received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic objections in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting objections. Objections submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your objection will be made public, you are solely responsible for ensuring that your objection does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your objection, that information will be posted on *https://www.regulations.gov.*
- If you want to submit an objection with confidential information that you do not wish to be made available to the public, submit the objection as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper objections submitted to the Dockets Management Staff, FDA will post your objection, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–F–5401 for ''Food Additives Permitted in Feed and Drinking Water of Animals; Guanidinoacetic Acid.'' Received objections, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit an objection with confidential information that you do not wish to be made publicly available, submit your objections only as a written/paper submission. You should submit two copies in total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of objections. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your objections and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper objections received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Carissa Adams, Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl. (HFV–221), Rockville, MD 20855, 240–402–6283, *Carissa.Adams@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In a document published in the **Federal Register** of November 29, 2019 (84 FR 65717), FDA announced that we had filed a food additive petition (animal use) (FAP 2309) submitted by Alzchem Trostberg GmbH, Dr.-Albert-Frank-Str. 32, 83308 Trostberg, Germany. The petition proposed that the regulations for food additives permitted in feed and drinking water of animals be amended to provide for the safe use of guanidinoacetic acid as a precursor of creatine in poultry feeds.

II. Conclusion

FDA concludes that the data establish the safety and utility of guanidinoacetic acid as a precursor of creatine in poultry feeds and that the food additive regulations should be amended as set forth in this document.

III. Public Disclosure

In accordance with § 571.1(h) (21 CFR 571.1(h)), the petition and documents we considered and relied upon in reaching our decision to approve the petition will be made available for public disclosure (see **FOR FURTHER INFORMATION CONTACT**). As provided in § 571.1(h), we will delete from the documents any materials that are not available for public disclosure.

IV. Analysis of Environmental Impact

We have determined under 21 CFR 25.32(r) that this action is of a type that does not individually or cumulatively have a significant effect on the human

environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Objections and Hearing Requests

Any person who will be adversely affected by this regulation may file with the Dockets Management Staff (see **ADDRESSES**) either electronic or written objections. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provision of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection.

List of Subjects in 21 CFR Part 573

Animal feeds, Food additives.

Therefore, 21 CFR part 573 is amended as follows:

PART 573—FOOD ADDITIVES PERMITTED IN FEED AND DRINKING WATER OF ANIMALS

■ 1. The authority citation for part 573 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348.

■ 2. In § 573.496, revise the introductory text and paragraphs (b) and (e)(2)(i) to read as follows:

§ 573.496 Guanidinoacetic acid.

The food additive, guanidinoacetic acid, may be safely used in poultry feeds in accordance with the following prescribed conditions:

* * * * *

(b) The additive is used or intended for use at levels not to exceed 0.12 percent of the complete feed:

(1) To spare arginine in broiler chicken and turkey feeds; or

(2) As a precursor of creatine in poultry feeds.

* * * * *

(e) * * *

(2) * * *

(i) A statement to indicate the maximum use level of guanidinoacetic acid must not exceed 0.12 percent of the complete feed for poultry; and

* * * * *

Dated: July 7, 2021.

Janet Woodcock,

Acting Commissioner of Food and Drugs.

Dated: July 12, 2021.

Xavier Becerra,

Secretary, Department of Health and Human Services.

[FR Doc. 2021–15070 Filed 7–13–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. OSHA–2020–0004]

RIN 1218–AD36

Occupational Exposure to COVID–19; Emergency Temporary Standard

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Interim final rule; correction.

SUMMARY: OSHA is fixing minor errors in the interim final rule published on June 21, 2021, titled Occupational Exposure to COVID–19; Emergency Temporary Standard, including correcting the docket number for submission of comments related to OSHA's information collection estimates under the Paperwork Reduction Act.

DATES: Effective July 14, 2021.

FOR FURTHER INFORMATION CONTACT:

Press inquiries: Frank Meilinger, Director, OSHA Office of Communications; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov*.

For technical inquiries: Maureen Ruskin, OSHA Directorate of Standards and Guidance; telephone: (202) 693–1955; email: *ruskin.maureen@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Summary and Explanation

On June 21, 2021, OSHA published an interim final rule establishing an emergency temporary standard (ETS) to protect healthcare and healthcare support service workers from occupational exposure to COVID–19 in settings where people with COVID–19 are reasonably expected to be present (86 FR 32376). In the Dates section of the preamble, the agency inadvertently included an incorrect docket number for submitting comments related to the information collection estimates under the Paperwork Reduction Act. The agency is submitting this document to correct this error.

In addition, in Section VI.B Economic Feasibility, several table references were incorrect or missing, some tables were incorrectly numbered, and one subsection heading was labeled incorrectly. Those changes are shown in the table below, titled ''Table of Non-substantive Corrections.''

II. Exemption From Notice-and-Comment Procedures

OSHA has determined that these corrections are not subject to the procedures for public notice and comment specified in the Administrative Procedure Act (5 U.S.C. 553) or Section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)). This rulemaking only corrects minor errors in the published rule and does not affect or change any existing rights or obligations. No stakeholder is likely to object to these corrections. Therefore, the agency finds good cause that public notice and comment are unnecessary under 5 U.S.C. 553(b)(3)(B), 29 U.S.C. 655(b), and 29 CFR 1911.5.

III. Correction of Publication

In FR Doc. 2021–12428 appearing in the **Federal Register** of June 21, 2021 (86 FR 32376), make the following corrections in the **DATES** section of the preamble.

On page 32376, in the second column, the second full paragraph is corrected to read as follows:

Comments due: Written comments, including comments on any aspect of this ETS and whether this ETS should become a final rule, must be submitted by July 21, 2021 in Docket No. OSHA–2020–0004. Comments on the information collection determination described in Section VII.K of the preamble (OMB Review under the Paperwork Reduction Act of 1995) may be submitted by August 20, 2021 in Docket Number OSHA–2021–0003.

In addition, the agency provides the following table, which contains a list of corrections of minor, non-substantive errors into section VI.B. These changes are to five table references within the text, six table numbers, and one subsection heading.

TABLE OF NON-SUBSTANTIVE CORRECTIONS

Page No.	Original text	Corrected text
Page 32519	below shows the entities and employees	Table VI.B.36 below shows the entities and employees.
Page 32537	Table VI.B.4142	Table VI.B.41.
Page 32539	Table VI.B.4344	Table VI.B.43.
Page 32540	Table VI.B.01	Table VI.B.44.
Page 32541	Table VI.B.12	Table VI.B.45.
Page 32542	Table VI.B.2	Table VI.B.46.
Page 32544	(raw data from Table VI.B.4546, Row K)	(raw data from Table VI.B.45, Row K).
Page 32544	(Table VI.B.4546, Row M)	(Table VI.B.45, Row M).
Page 32544	summarized in Row L of in Need for Specific Provisions	summarized in Row L of Table VI.B.44. In Need for Specific Provisions.
Page 32544	(see Table VI.B.4142	(see Table VI.B.41.
Page 32546	d. Low-Case Sensitivity Analysis	Low-Case Sensitivity Analysis.
Page 32548	Error! Reference source not found	Table VI.B.A.1.

List of Subjects for 29 CFR part 1910

COVID–19, Disease, Health facilities, Health, Healthcare, Incorporation by reference, Occupational health and safety, Public health, Quarantine, Reporting and recordkeeping requirements, Respirators, SARS–CoV–2, Telework, Vaccines, Viruses.

Authority and Signature

James S. Frederick, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this document pursuant to the following authorities: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order 8–2020 (85 FR 58393 (Sept. 18, 2020)); 29 CFR part 1911; and 5 U.S.C. 553.

James S. Frederick,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2021–14326 Filed 7–13–21; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

[SATS No. MT–039–FOR; Docket No. OSM–2020–0004; S1D1S SS08011000 SX064A000 212S180110; S2D2S SS08011000 SX064A000 21XS501520]

Montana Abandoned Mine Land Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving an amendment to the Montana abandoned mine land (AML) reclamation plan (Montana Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Montana proposed to repeal and replace its existing AML Plan in response to OSMRE's request to amend the Plan and to improve the readability and efficiency of the document. Montana also submitted a statutory provision enacted by the State legislature in 2007 regarding its AML account for OSMRE approval.

DATES: Effective August 13, 2021.

FOR FURTHER INFORMATION CONTACT: Jeffrey Fleischman, Office of Surface Mining Reclamation and Enforcement, Dick Cheney Federal Building, 150 East B Street, Casper, WY 82601–7032. Telephone: (307) 261–6550. Email: *jfleischman@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Montana Plan

The Abandoned Mine Land Reclamation Program was established by Title IV of the Act (30 U.S.C. 1201 *et seq.*) in response to concerns over extensive environmental damage caused by past coal mining activities. The program is funded by a reclamation fee collected on each ton of coal that is produced. The money collected is used to finance the reclamation of abandoned coal mines and for other authorized activities. Section 405 of the Act allows States and Indian Tribes to assume exclusive responsibility for reclamation activity within the State or on Indian lands if they develop and submit to the Secretary of the Interior for approval a program (often referred to as a plan) for the reclamation of abandoned coal mines.

On October 24, 1980, the Secretary of the Interior approved the Montana Plan. You can find general background information on the Montana Plan, including the Secretary's findings and the disposition of comments, in the October 24, 1980, **Federal Register** (45 FR 70445). OSMRE announced in the July 9, 1990, **Federal Register** (55 FR 28022) the Director's decision accepting certification by Montana that it had addressed all known coal-related impacts in the State that were eligible for funding under the Montana Plan. You can also find later actions concerning Montana's AML Program and Plan amendments at 30 CFR 926.25.

II. Submission of the Amendment

Under the authority of 30 CFR 884.15, OSMRE directed Montana to update its Plan by letter dated March 6, 2019 (Document ID No. OSM–2020–0004–0003). OSMRE indicated that the Montana Plan required revisions to meet the requirements of SMCRA as revised on December 20, 2006, under the Tax Relief and Health Care Act of 2006 (Pub. L. 109–432), and in response to changes made to the implementing Federal regulations as revised on November 14, 2008 (73 FR 67576) and February 5, 2015 (80 FR 6435). By letter dated August 4, 2020 (Administrative Record No. OSM–2020–0004–0002), Montana sent us an amendment to its State Plan under SMCRA (30 U.S.C. 1201 *et seq.*). Montana's amendment is intended to address all required amendments identified in OSMRE's letter dated March 6, 2019. The State also proposed additional changes as part of the State's initiative to improve the Plan's readability and operational efficiency. The State also proposed a statutory addition enacted by its legislature in 2007. Montana's amendment will repeal and replace the State's existing Abandoned Mine Lands (AML) Plan.

We announced receipt of the proposed amendment in the December

17, 2020, **Federal Register** (85 FR 81862). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because none were requested. The public comment period ended on January 19, 2021.

III. OSMRE's Findings

The following are the findings we made concerning Montana's amendment under SMCRA and the Federal regulations at 30 CFR 884.14 and 884.15. We are approving the amendment as described below.

Montana's Legislature enacted new statutory language at 82–4–1006, MCA in 2007 regarding establishment, management, and use of funds in the State's Abandoned Mine Reclamation Account (Account). This new statute establishes the State's Abandoned Mine Reclamation Account within the Federal special revenue fund under existing 17–2–102, MCA. The Federal special revenue fund consists of money deposited in the State treasury from Federal sources, including trust income, that is used for operation of the State government. This is the appropriate place to create an account for managing Federal grant funds under SMCRA. The applicable sections of 82–4–1006(1) through (3), MCA properly identify SMCRA AML Program funding sources, handling of interest, uses of funds including specific lands and waters eligible for project funding under the AML Program, and allowable reclamation activities. The listed eligible lands and waters as well as reclamation activities are in accordance with those allowed for certified States under SMCRA Section 411. Creation of such an account is required under SMCRA Section 401(a), which requires States to establish AML accounts for grant funds. Montana has fulfilled that responsibility by establishing its Abandoned Mine Reclamation Account.

According to 82–4–1006(4), MCA money in the Account that is subject to restrictions on use pursuant to Federal law, regulation, or grant conditions can only be used for the established purposes of the applicable Federal provision. Montana's Plan as revised under this amendment, as well as existing applicable statutory AML provisions, demonstrate that Montana's AML activities are consistent with SMCRA. Montana's Plan will prioritize addressing the impacts of historic mining and will comply with all grant requirements under 2 CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. However, 82–4–1006(4), MCA ensures OSMRE grants, any abandoned mine lands grant funding from other Federal agencies, and any potential special future OSMRE funding received will be spent in accordance with applicable Federal restrictions.

Furthermore, 82–4–1006(5), MCA provides that unspent and unencumbered money must remain in the account at the end of the fiscal year until spent or appropriated by the State legislature. Montana's certified AML grants from OSMRE are typically provided on a three-year performance period, although this performance period can be extended at the State's request. The performance period begins when the AML grant agreement is signed. If the State does not expend the funds during the course of the performance period they must return the unused funds back to OSMRE. However, the State can retain the unspent funds to carry over to the next year as long as it is within the performance period.

Because Montana's statutory language at 82–4–1006, MCA fulfills a requirement for the State to create AML accounts for grant funds at SMCRA section 401(a), all restrictions on handling and use of funds are in accordance with requirements for certified States under SMCRA section 411, and all grant funds will be managed in accordance with 2 CFR part 200, we are approving the addition of 82–4–1006, MCA.

A. Revisions to Montana's Certified AML Plan

Montana is repealing and replacing its AML Plan with a simplified version that is structured similarly to the Federal AML Plan content requirements for States at 30 CFR 884.13. Documentation associated with Montana's original AML Program approval and subsequent Plan revisions was included within the State's previous Plan, leading to a lengthy and often duplicative document that was difficult to navigate. Now, Montana has made multiple editorial changes for brevity and structural alignment with Federal requirements as well as updates consistent with the 2006 changes to SMCRA under the Tax Relief and Health Care Act of 2006 (Pub. L. 109–432) and the associated changes to the implementing Federal regulations on November 14, 2008 (73 FR 67576), and February 5, 2015 (80 FR 6435). In order to simplify the Plan, the new version omits large and lengthy documentation that is now either incorporated by reference, is no longer applicable to Montana's AML Program, was in duplicate copy, was replaced by updated information, or was never required to be included in the Plan. All changes are discussed below.

In order to simplify its Plan, Montana is removing and referencing **Federal Register** documentation regarding its AML Program approval, Program and Plan revisions, and certification of completion of all known high priority coal hazards. Removal and incorporation by reference is appropriate because these documents are not required to be in the State Plan.

Throughout Montana's revised Plan, applicable State and Federal AML statutes and regulations are referenced, rather than incorporating the full text of those provisions. This approach decreases the overall volume of the Plan and prevents the need to further revise the Plan in the event of future statutory or regulatory changes. This change neither alters the statutes or regulations that apply to Montana nor the State's authority or procedures for implementing its certified AML Program.

Montana's revised Plan includes subsections entitled Background on Title IV of SMCRA, Background on the Montana Plan, and Purpose of the 2019 Revision. Inclusion of narrative program summaries is not required under the Federal program. However, it does provide background and context for the State's certified AML Plan and does not conflict with the established AML Plan content requirements at 30 CFR 884.13.

Montana's revised Plan includes copies of the Governor's 1977 and 1995 letters, respectively, initially designating the Department of State Lands and, then later after an agency reorganization, the Department of Environmental Quality, as the agency authorized to administer the State AML Program and to receive and administer grants under 30 CFR part 886. Because Montana's AML Program is certified, it no longer receives grant funding from OSMRE under Part 886, but rather receives certified grant funding under 30 CFR part 885. While the 1977 and 1995 Governor's letters should be replaced with an updated version reflecting the State's certified grant recipient status and that it receives funding under 30 CFR part 885, the designated State agency remains the same as it was prior to certification. Montana has incorporated the Governor's letters designating the Department of Environmental Quality as the agency authorized to administer the State AML Program and receive and administer grants in its Plan as required under 30 CFR 884.13(a)(1). Montana may replace these letters with an

updated version without resubmitting that change to OSMRE as an amendment.

Montana provided an updated June 26, 2020, legal opinion from the State Attorney General indicating that the Department of Environmental Quality is the designated agency with the authority to conduct the AML Program in accordance with all requirements of SMCRA Title IV. Previous versions of this opinion have been removed from Montana's Plan because they are superseded by the new opinion. Montana has incorporated the Attorney General's letter in its Plan as required under 30 CFR 884.13(a)(2).

Federal regulations at 30 CFR 884.13(a)(3) require a description of the policies and procedures of the State agency, including the purposes of the State reclamation program. Montana's Plan includes a Policies and Procedures section that provides succinct descriptions of, and legal citations for, the purposes of its AML Program consistent with 30 CFR 884.13(a)(3).

Montana's revised Plan includes a section entitled Ranking and Selection that provides appropriate eligibility and prioritization criteria for coal and noncoal hazards based upon updated Federal program requirements, as well as the prioritization matrix Montana uses to assess and prioritize potential project areas for reclamation. This section is consistent with the Plan content requirements of 30 CFR 884.13(a)(3)(ii), which requires specific criteria, consistent with SMCRA, for ranking and identifying projects to be funded.

Montana's revised Plan includes a Limited Liability and Authorization to Proceed subsection under its Ranking and Selection section that indicates the State will comply with all applicable requirements to extend Limited Liability protections under SMCRA Section 405(l) to both coal and noncoal projects. Reclamation projects will not be undertaken without first receiving an Authorization to Proceed from OSMRE. This is in accordance with SMCRA 405(l) and consistent with 30 CFR 874.15 and 875.19, Limited Liability, which now provide limited liability coverage to certified State coal and noncoal reclamation activities, unless the costs or damages were the result of gross negligence or intentional misconduct.

Montana's revised Plan includes a section entitled Coordination With Other Programs that indicates the State will coordinate with other agencies and offices including the Natural Resources Conservation Service within the Department of Agriculture (formerly known as the Soil Conservation Service), Indian Tribes, and OSMRE as required, as well as multiple other State and Federal entities. By indicating it will coordinate and work with all required agencies, as well as additional agencies applicable in the State, Montana's proposed section is consistent with the requirements of 30 CFR 884.13(a)(3)(iii).

To describe how land will be acquired, managed, and disposed of, Montana's Plan includes a section entitled Land Acquisition, Management and Disposal that incorporates all applicable State and Federal statutory sections by reference. This ensures activity will occur in accordance with established State and Federal AML Program requirements. Therefore, Montana's Plan includes the State's policies and procedures for land acquisition, management, and disposition consistent with the requirements of 30 CFR 884.13(a)(3)(iv).

Montana's revised Plan includes a section entitled Reclamation on Private Land and Rights of Entry that indicates the State will follow guidelines in SMCRA Section 407, 30 CFR part 882, and the provisions in 82–4–1006, –239, –371, and –445, MCA regarding reclamation work on private land. The reference to SMCRA Section 407 is incorrect and OSMRE advised Montana that the reference should be to Section 408, Liens. Montana intends to correct this reference in its Plan and does not need to resubmit that change to OSMRE as an amendment. Montana also specifies that consent for entry will be obtained before entering private land, but if consent is denied procedures outlined in 30 CFR part 877 and 82–4–239, –371, and –445, MCA will be followed. With the corrected citation, this section of Montana's Plan accurately provides the State's policies and procedures for reclamation on private lands and right of entry and is therefore consistent with the Plan content requirements of 30 CFR 884.13(a)(3)(v) and (vi).

Montana's revised Plan includes a section entitled Public Participation that indicates which State and Federal laws it will comply with pertaining to public participation, notice, and comment procedures for AML project activities and in other actions such as development of the AML Plan. Because Montana's proposed section provides the procedures and processes it will follow to ensure public participation and involvement in the State reclamation program and in preparation of the State reclamation Plan, this section is consistent with 30 CFR 884.13(a)(3)(vii).

As discussed above, Montana's revised Plan includes sections responding to the requirements of 30 CFR 884.13(a)(3)(i) through (vii). These sections provide updated descriptions of the State's policies and procedures for conducting its AML Program including: The purposes of the Program; specific criteria for ranking and identifying projects to be funded; coordination of reclamation work between the State and all applicable State and Federal agencies; land acquisition; reclamation on private land; right of entry; and public involvement in the State reclamation program. These sections are simplified from previous versions of the Plan to eliminate unnecessary volume. Montana's revised Plan is consistent with the AML Plan content requirements of 30 CFR 884.13(a)(3).

Federal regulations at 30 CFR 884.13(a)(4)(i) require a description of the designated agency's organization and relationship to other State entities that may participate in or augment the State's AML reclamation abilities. Montana's Plan includes a section entitled Policies and Procedures, Department Structure, that provides these descriptions as well as an organizational chart depicting the entire Division of Environmental Quality and the AML Program's place within it.

Federal regulations at 30 CFR 884.13(a)(4)(ii) require a description of the personnel staffing policies that will govern assignments within the AML Program. Montana's revised Plan includes a section entitled Staffing and Personnel Policies that references applicable personnel and procurement policies such as the Age Discrimination Act of 1975 and the Civil Rights Act of 1964 rather than incorporating full text versions of these documents, which were included in the previous version of Montana's Plan. This change does not alter Montana's personnel or procurement procedures but decreases the overall volume of the Plan while still providing the information required under 30 CFR 884.13(a)(4)(ii).

Federal regulations at 30 CFR 884.13(a)(4)(iii) require State purchasing and procurement systems to meet the requirements of Office of Management and Budget Circular A–102, Attachment 0, relating to ''Grants and Cooperative Agreements with State and Local Governments''. Federal grantmaking agencies were previously required to issue a grants management common rule to adopt governmentwide terms and conditions for grants to States and local governments. As a result, the attachments to Circular A–102, including Attachment 0 referenced in 30

CFR 884.13(a)(4)(iii), have been replaced by the grants management common rule at 2 CFR part 200. The Federal regulations have not yet been updated to reflect this change; however, it is reflected in the State's revised Plan under the section entitled Purchasing and Procurement, which indicates its purchasing and procurement policies are consistent with 2 CFR part 200. This section provides descriptions of purchasing and procurement systems consistent with the requirements of 30 CFR 884.13(a)(4)(iii).

Montana's revised Plan includes a Contractor Eligibility subsection under the Purchasing and Procurement section that indicates the State will comply with SMCRA section 510(c) and 30 CFR 875.20 in determining the eligibility of bidders on AML Program contracts through the Applicant Violator System (AVS). By referencing the applicable Federal statute and regulation, Montana's revised Plan incorporates all applicable contractor eligibility requirements and is therefore consistent with the Federal program at SMCRA section 510(c) and 30 CFR 875.20.

Federal regulations at 30 CFR 884.13(a)(4)(iv) require a description of the accounting system to be used by the agency including specific procedures for operation of the AML Fund. Montana's new Plan includes a section entitled Accounting System that describes the Statewide Accounting, Budgeting and Human Resources System, how it conforms to 2 CFR part 200, that funds are safeguarded and accounted for, how audits will be conducted and audit recommendations implemented, and programmatic and financial reports will be made to OSMRE as required.

As discussed above, Montana's revised Plan includes four sections providing revised descriptions of the State's administrative and management structure: Department Structure; Staffing and Personnel Policies; Purchasing and Procurement; and Accounting System. By providing all required descriptions of the administrative and management structure of the State AML agency, Montana's revised Plan is consistent with all AML Plan content requirements under 30 CFR 884.13(a)(4).

Montana's revised Plan includes sections entitled Description of Reclamation Activities, Montana AML Problems, and Plan to Address Problems that provide general descriptions derived from available data of the reclamation activities to be conducted under the State Plan including: A map showing the general location of known or suspected eligible lands and waters; a description of the problems occurring on those lands and waters; and how the Plan proposes to address each of the problems. Because Montana is certified, the State has already completed all known high priority coal hazards. The revised maps and information reflect the State's certified status, identifying historic mining areas where AML hazards may occur, as well as general AML hazard types and abatement strategies without identifying specific project areas. Individual project approval and funding are appropriately handled through the Authorization to Proceed process under 30 CFR 885.16(e). Montana's revised Plan sections entitled Description of Reclamation Activities, Montana AML Problems and Plan to Address Problems are consistent with the AML Plan content requirements of 30 CFR 884.13(a)(5) in providing general descriptions of reclamation activities to be conducted including maps, descriptions of AML problems, and descriptions of hazard abatement strategies.

Montana's revised Plan includes sections entitled: Geographic Areas of Montana; Montana Economic Base; Significant Esthetic, Historic or Cultural, and Recreational Values; and Endangered and Threatened Plant, Fish, and Wildlife Habitat that provide general descriptions on each subject derived from available data on the conditions prevailing in the areas of the state where reclamation may occur. Montana has reduced the volume of these sections by omitting unnecessary documentation that was included in the previous version of its Plan such as detailed demographic information, projected population growth rates, graphics and charts depicting different population and employment parameters, and a map depicting the general topographic regions of the state. The omitted items were outdated and not required to be in the Plan. Montana's revised Plan provides descriptions of the prevailing conditions in the State where reclamation may occur consistent with the requirements of 30 CFR 884.13(a)(6).

Montana's revised Plan includes a section entitled Additional Requirement for Certified States and Indian Tribes that provides a commitment to address all eligible coal problems found or occurring after certification as required under 30 CFR 875.13(a)(3) and 875.14(b). Montana indicates it will prioritize coal hazards over noncoal hazards unless a noncoal hazard site imminently threatens human health or the environment, in which case, the State will assess the need for taking appropriate action in consultation with OSMRE. By committing to give priority to addressing eligible coal problems found or occurring after certification as required in 30 CFR 875.13(a)(3) and 875.14(b), Montana's revised Plan is consistent with the AML Plan content requirements of 30 CFR 884.13(b).

Thus, we find that Montana's Plan, as amended, meets all content requirements stipulated under 30 CFR 884.13 while also updating the Plan consistently with changes made to the Federal program in 2006, 2008, and 2015. Montana's revised Plan, therefore, meets the requirements of OSMRE's March 6, 2019 letter, and we approve it.

B. Sections Removed From the Montana Plan

To simplify its revised Plan, Montana removed and did not replace extraneous, duplicate, and outdated documentation from the repealed version. A brief discussion of major sections no longer included in Montana's Plan is as follows:

Montana has removed its outdated AML hazard inventory, project planning, and estimated cost information. As a certified State, all high priority coal hazards have now been abated and such detailed project planning is neither possible nor required to be incorporated in Montana's Plan. Proposed projects are now appropriately identified by the State and approved by OSMRE through the Authorization to Proceed processes under 30 CFR 885.16(e).

Montana has removed the full text of several statutory and regulatory provisions from its Plan. As noted in the section above, many statutes and regulations are now incorporated by reference rather than copied in the Plan. However, some are removed and not referenced or replaced in the Plan. This action neither alters any existing statutes or regulations, which will continue to apply with full force and effect, nor does it alter which statutes or regulations apply to Montana's certified AML Program. Removals include: State statutes establishing the Board of Environmental Review; rules pertaining to equal opportunity, handicapped person's preference, and purchasing; and Americans With Disabilities Act implementation plans. Similarly, Montana has removed some Federal regulation language, including previous versions of 30 CFR 884.13 through 884.15 and 30 CFR 926.21, from its Plan. This State and Federal language was never required to be incorporated in the State Plan. As such, removal is appropriate.

Montana removed historic records related to approval and revision of its

AML Program such as transmittal memos, records of public meetings, and discussion records between the State and OSMRE. Appendix A to the Plan includes a chronological list of significant Montana AML Program historical events. The removed historical documents are not required to be included in the State Plan and removal is therefore appropriate.

Montana has removed sections entitled The New Interim Bond Forfeiture Projects Initiative and The New Bankrupt Surety Bond Forfeiture Projects Initiative. To qualify for reclamation under these programs, sites must have been mined for coal or affected by coal mining processes and the site left in either an un-reclaimed or inadequately reclaimed condition (1) between August 4, 1977, and April 1, 1980 (the date on which the Secretary of the Interior approved Montana's regulatory program pursuant to Section 503 of SMCRA), and any funds pursuant to a bond or other financial guarantee or from any other source that would be available for reclamation and abatement were not sufficient to provide for adequate reclamation or abatement at the site, or (2) between August 4, 1977, and November 5, 1990, and the surety of the mining operator became insolvent during such period, and as of November 5, 1990, funds immediately available from proceedings relating to such insolvency or from any financial guarantee or other source were not sufficient to provide for adequate reclamation or abatement of the site. In addition, to qualify for reclamation or abatement funding under the initiatives cited above, such sites must have been either Priority 1 or 2 sites pursuant to section 403(a)(1) and (2) of SMCRA. Because more than 30 years have passed since any site could qualify for reclamation under these requirements, this part is no longer relevant to the Montana Program. As such, removal of the sections related to these initiatives is appropriate.

Montana is repealing and not replacing its Plan section entitled The Grant Set Aside for Future Priority I–III Coal, and AMD Abatement/Treatment Program Initiative because it no longer applies to the Montana Program. The State retains its Trust Fund for future expenditures on abandoned mine reclamation (coal or noncoal) and its OSMRE Trust (coal only). No new grant funds are placed in these accounts and interest earned is considered State funds in accordance with 30 CFR 873.12. Montana also has an approved interest-bearing account earmarked for the operation and maintenance of the Belt Water Treatment Plant authorized via letter from OSMRE dated July 21, 2010. However, this is not a set-aside account under SMCRA section 402(g)(6) and was properly funded using Prior Balance Replacement and Certified in Lieu Funds. Although Montana is removing this section from its Plan, its historically approved and created accounts remain in existence and are properly administered through the State's normal operations and overseen by OSMRE through routine oversight and grant monitoring processes.

Montana is removing its Emergency Reclamation Responsibility section previously approved under SMCRA sections 401(c)(5) and 410 and 30 CFR 877.14, and 30 CFR part 879. This program only applied to emergency coal hazards and is no longer applicable or necessary under Montana's certified AML Program.

All content removal support Montana's goals of streamlining and updating its Plan consistently with updated Federal requirements as required by OSMRE though its March 6, 2019 letter sent under the authority of 30 CFR 884.15. We therefore approve these changes.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment, but none were received.

Federal Agency Comments

Pursuant to 30 CFR 884.15(a) and 884.14(a)(2), OSMRE solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Montana Plan on October 14, 2020 (Administrative Record No. OSM–2020–0004–0004). We did not receive any comments.

Environmental Protection Agency (EPA) Concurrence and Comments

OSMRE solicited EPA's comments on the proposed amendment (Administrative Record No. OSM–2020–0004–0004). The EPA did not respond to our request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

OSMRE solicited comments on the proposed amendment from the SHPO (Administrative Record No. OSM–2020–0004–0004) and the ACHP (Administrative Record No. OSM–2020–0004–0005). SHPO did not respond to our request. By email dated December 4, 2020 (Administrative Record No. OSM–2020–0004–0006), ACHP indicated its belief that the revised Plan did not have any involvement with OSMRE's National Historic Preservation Act (NHPA) Section 106 review process in Montana, and therefore ACHP does not have any comments on this Plan. OSMRE agrees with ACHP's assessment that the revised Plan does not alter OSMRE's NHPA Section 106 review process in Montana.

V. OSMRE's Decision

Based on the above findings, we are approving Montana's AML Plan amendment that was submitted on August 4, 2020.

To implement this decision, we are amending the Federal regulations, at 30 CFR part 926, which codify decisions concerning the Montana Plan. In accordance with the Administrative Procedure Act, this rule will take effect 30 days after the date of publication. Generally, SMCRA requires that each State with an AML program must have an approved State regulatory program pursuant to section 503 of the Act. Section 503(a) of the Act requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule would not affect a taking of private property or otherwise have taking implications that would result in private property being taken for government use without just compensation under the law. Therefore, a takings implication assessment is not required. This determination is based on an analysis of the corresponding Federal regulations.

Executive Orders 12866—Regulatory Planning and Review and 13563—Improving Regulation and Regulatory Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993, the approval of State program amendments is exempted from OMB review under Executive Order 12866. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has reviewed this rule as required by

Section 3(a) of Executive Order 12988. The Department has determined that this **Federal Register** document meets the criteria of Section 3 of Executive Order 12988, which is intended to ensure that the agency review its legislation and regulations to minimize litigation; and that the agency's legislation and regulations provide a clear legal standard for affected conduct, rather than a general standard, and promote simplification and burden reduction. Because section 3 focuses on the quality of Federal legislation and regulations, the Department limited its review under this Executive Order to the quality of this **Federal Register** document and to changes to the Federal regulations. The review under this Executive Order did not extend to the language of the Montana Plan or to the Plan amendment that the State of Montana submitted.

Executive Order 13132—Federalism

This rule is not a ''[p]olicy that [has] Federalism implications'' as defined by section 1(a) of Executive Order 13132 because it does not have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Instead, this rule approves an amendment to the Montana Plan submitted and drafted by that State. OSMRE reviewed the submission with fundamental federalism principles in mind as set forth in sections 2 and 3 of the Executive order and with the principles of cooperative federalism as set forth in SMCRA. *See, e.g.,* 30 U.S.C. 1201(f). As such, pursuant to section 503(a)(1) and (7) (30 U.S.C. 1253(a)(1) and (7)), OSMRE reviewed Montana's amendment to ensure that it is ''in accordance with'' the requirements of SMCRA and ''consistent with'' the regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Tribes or on the distribution of power and responsibilities between the Federal government and Tribes. Therefore, consultation under the Department's tribal consultation policy is not required. The basis for this determination is that our decision is on the Montana program that does not include Tribal lands or regulation of activities on Tribal lands. Tribal lands are regulated independently under the applicable, approved Federal program.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 requires agencies to prepare a Statement of Energy Effects for a rulemaking that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not significant energy action under the definition in Executive Order 13211, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. We are not required to provide a detailed statement under the National Environmental Policy Act of 1969 (NEPA) because this rule qualifies for a categorical exclusion under the U.S. Department of the Interior Departmental Manual, part 516, section 13.5(B)(29).

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (15 U.S.C. 3701 *et seq.*) directs OSMRE to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. OMB Circular A–119 at p. 14. This action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with SMCRA.

Paperwork Reduction Act

This rule does not include requests and requirements of an individual, partnership, or corporation to obtain information and report it to a Federal agency. As this rule does not contain information collection requirements, a submission to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to constitute a major rule.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to impose an unfunded mandate. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 926

Intergovernmental relations, Surface mining, Underground mining.

David A. Berry,

Regional Director, Interior Unified Regions 5, 7–11.

For the reasons set out in the preamble, 30 CFR part 926 is amended as set forth below:

PART 926—MONTANA

■ 1. The authority citation for part 926 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 926.25 is amended in the table by adding an entry in chronological order by ''Date of final publication'' to read as follows:

§ 926.25 Approval of Montana abandoned mine land reclamation plan amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	*
August 4, 2020	July 14, 2021	Repeal and replace Certified AML Plan in response to OSMRE 884 Letter and State initiative streamlining of Plan. Updates Plan to be consistent with changes to Federal program and extends limited liability protection for certain coal and noncoal reclamation projects. Addition of 82–4–1006, MCA.

[FR Doc. 2021–14766 Filed 7–13–21; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2021–0029]

RIN 1625–AA08

Special Local Regulations; Mystic Sharkfest Swim, Mystic River, Mystic, CT

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard will issue special local regulations for an annual Mystic Sharkfest Swim event on the Mystic River. This rule is intended to ensure the protection of the maritime public and event participants from the hazards associated with this marine event. Once enforced, these special local regulations would restrict vessels from transiting the regulated area during this annually recurring event.

DATES: This rule is effective without actual notice July 14, 2021. For the purposes of enforcement, actual notice will be used from July 18, 2021 until July 14, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0029 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Marine Science Technician 1st Class Chris Gibson, Waterways Management Division, Sector Long Island Sound; Tel: (203) 468–4565; Email: *chris.a.gibson@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Long Island Sound
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On April 13, 2021, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Special Local Regulations; Mystic Sharkfest Swim, Mystic River, Mystic, CT (86 FR 19169). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended May 13, 2021, we received 0 comments.

The Captain of the Port Long Island Sound (COTP) will amend Table 1 of 33 CFR 100.100 Special Local Regulations; Regattas and Boat Races in the Coast Guard Sector Long Island Sound Captain of the Port Zone because adding this single reaccuring event will considerably reduce administrative overhead and provide the public with notice through publication in the **Federal Register** of the upcoming recurring special local regualtion.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The COTP has determined that potential hazards associated with this annual recurring event will be a safety concern for anyone within the area where the special local regulations will commence. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule wold be impracticable and contrary to the public interest because the special local regulation must be established for the swim event on July 18, 2021 to mitigate the potential safety hazards.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published April 13, 2021. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes special local regulations for the annual Mystic Sharkfest Swim event by adding this event to Table 1 to 33 CFR 100.100. The event will occur on a day in July at a time to be determined each year. The regulated area will encompass all waters of the Mystic River in Mystic, CT from Mystic Seaport, down the Mystic River, under the Bascule Drawbridge, to the boat launch ramp at the north end of Seaport Marine. Once enforced on the one day in July each year, these special local regulations would restrict vessels from transiting the regulated area. The specific description of this regulation appears at the end of this document.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, and duration and time-of-day of the special local regulation. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the special local regulation and the rule would allow vessels to seek permission to enter the area. Vessel traffic would also be able to request permission from the COTP or a designated representative to enter the restricted area.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received 0 comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves adding an annually recurring marine event to the already listed Table in 33 CFR 100.100. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. In § 100.100, amend Table 1 by inserting item 7.8, in numerical order, to read as follows:

TABLE 1 TO § 100.100

*	*	*
7	July	
*	*	*
7.8	Mystic Sharkfest Swim	• Date: A single day during July. • Time: To be determined annually. • Location: All waters of the Mystic River in Mystic, CT from Mystic Seaport, down the Mystic River, under the Bascule Drawbridge at 41°21′17.046″ N, 071° 58′8.742″ W, to finish at the boat launch ramp at the north end of Seaport Marine.
*	*	*

Dated: July 8, 2021.

E. J. Van Camp,

Captain, U.S. Coast Guard, Captain of the Port Long Island Sound.

[FR Doc. 2021–14970 Filed 7–13–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0524]

RIN 1625–AA00

Safety Zone; Pacific Ocean, Offshore Barbers Point, Oahu, HI—Recovery Operations

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the navigable waters of the Southwest shores of Oahu, Hawaii, near Barbers Point. The temporary safety zone encompasses all waters extending 3 nautical miles in all directions from position 21°16′36″ N, 158°01′42″ W. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with ongoing operations to salvage a downed aircraft in this area. Entry of vessels or persons in this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Honolulu.

DATES: This rule is effective without actual notice from July 14, 2021 until 12 p.m. on July 30, 2021. For the purposes of enforcement, actual notice will be used from July 2, 2021, until July 14, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0524 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Joshua Williams, Waterways Management Division, U.S. Coast Guard Sector Honolulu at (808) 541–2359 or *Joshua.b.williams@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is needed to respond to the potential safety hazards associated with this salvage effort, and therefore publishing an NPRM is impracticable and contrary to public interest.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). On July 2, 2021, the Coast Guard was informed of a cargo plane crash off the Southwest shores of Oahu, Hawaii near Barber's Point. The Coast Guard COTP Sector Honolulu has determined that the potential hazards associated with the salvage operations constitute a safety concern for anyone within the designated safety zone. This rule is necessary to protect personnel, vessels, and the marine environment within the navigable waters of the safety zone during ongoing salvage operations.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is necessary to ensure the safety of the ongoing recovery operations.

IV. Discussion of the Rule

This rule is effective from July 2, 2021 through 12 p.m. on July 30, 2021, or until salvage operations are complete, whichever is earlier. If the safety zone is terminated prior to 12 p.m. on July 30, 2021, the Coast Guard will provide notice via a broadcast notice to mariners. The temporary safety zone encompasses all waters extending 3 nautical miles in all directions around the location of ongoing salvage operations near position 21°16′36″ N, 158°01′42″ W. This zone extends from the surface of the water to the ocean floor. The zone is intended to protect personnel, vessels, and the marine environment in these navigable waters from potential hazards associated with the salvage operations of one downed helicopter in this area. No vessel or person will be permitted to enter the safety zone absent the express authorization of the COTP or his designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and

Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on [provide factual reasons related to the waterway, duration of rule, etc.].

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator. This safety zone is limited in size and duration, and mariners may request to enter the zone by contacting the COTP.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone with a duration of 28 days or until salvage operations are completed. It is categorically excluded from further review under paragraph L60(d) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Secruity Delegation No. 0170.1.

■ 2. Add § 165.T14–0524 to read as follows:

§ 165.T14–0524 Safety Zone; Pacific Ocean, Offshore Barbers Point, Oahu, HI—Recovery Operations.

(a) *Location.* The safety zone is located within the COTP Zone (See 33 CFR 3.70–10) and will encompass all navigable waters extending 3 nautical miles in all directions around the location of ongoing salvage operations near position 21°16′36″ N, 158°01′42″ W. This zone extends from the surface of the water to the ocean floor.

(b) *Enforcement period.* This rule is effective from 1 p.m. (HST) on July 2, 2021 through 12 p.m. (HST) on July 30, 2021, or until salvage operations are complete, whichever is earlier. If the safety zone is terminated prior to 12 p.m. (HST) on July 30, 2021, the Coast Guard will provide notice via a broadcast notice to mariners.

(c) *Regulations.* The general regulations governing safety zones contained in 33 CFR 165.23 apply to the safety zone created by this temporary final rule.

(1) All persons are required to comply with the general regulations governing safety zones found in 33 CFR part 165.

(2) Entry into or remaining in this zone is prohibited unless expressly authorized by the COTP or his designated representative.

(3) Persons desiring to transit the safety zone identified in paragraph (a) of this section may contact the COTP at the Command Center telephone number (808) 842–2600 and (808) 842–2601, fax (808) 842–2642 or on VHF channel 16 (156.8 Mhz) to seek permission to transit the zone. If permission is granted, all persons and vessels must comply with the instructions of the COTP or his designated representative and proceed at the minimum speed necessary to maintain a safe course while in the zone.

(4) The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(d) *Notice of enforcement.* The COTP Honolulu will cause Notice of the Enforcement of the safety zone described in this section to be made by Broadcast to the maritime community via marine safety broadcast notice to mariners on VHF channel 16 (156.8 MHz).

(e) *Definitions.* As used in this section, designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the COTP to assist in enforcing the safety zone described in paragraph (a) of this section.

Dated: July 2, 2021.

N.S. Worst,

Commander, U.S. Coast Guard, Alternate Captain of the Port Honolulu.

[FR Doc. 2021–14860 Filed 7–13–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2021–0507]

Safety Zones; Annual Events in the Captain of the Port Buffalo Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone located in federal regulations for a recurring marine event. This action is necessary and intended for the safety of life and property on navigable waters during this event. During the enforcement period, no person or vessel may enter the respective safety zone without the permission of the Captain of the Port Buffalo or a designated representative.

DATES: The regulations listed in 33 CFR 165.939 as listed in Table 165.939(c)(1) will be enforced from 7:15 a.m. through 1:15 p.m. on July 17, 2021.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email MST2 Natalie Smith, Waterways Management Division, U.S. Coast Guard Marine Safety Unit Cleveland; telephone (216) 937–6004, email *D09-SMB-MSUCLEVELAND-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Safety Zones; Annual Events in the Captain of the Port Buffalo Zone listed in 33 CFR 165.939, Table 165.939(c)(1) for the Whiskey Island Paddlefest in Cleveland, OH, on all U.S. waters of Lake Erie, Cleveland Harbor, from 41°29′59.5″ N and 081°42′59.3″ W, to 41°30′4.4″ N and 081°42′44.5″ W, to 41°30′17.3″ N and 081°43′0.6″ W, to 41°30′9.4″ N and 081°43′2.0″ W, to 41°29′54.9″ N and 081°43′34.4″ W, to 41°30′0.1″ N and 081°43′3.1″ W, and back to 41°29′59.5″ N and 081°42′59.3″ W (NAD 83) from 7:15 a.m. through 1:15 p.m. on July 17, 2021. The scheduled date of zone enforcement differs from that published in 33 CFR 165.939 to accommodate the sponsoring organization's priority to better align their event with other occurring local events, other paddle races taking place in the Great Lakes region, and to ensure the availability of personnel and resources to support the event.

Pursuant to 33 CFR 165.23, entry into, transiting, or anchoring within the safety zone during an enforcement period is prohibited unless authorized by the Captain of the Port Buffalo or a designated representative. Those seeking permission to enter the safety zone may request permission from the Captain of the Port Buffalo via channel 16, VHF–FM. Vessels and persons granted permission to enter the safety zone shall obey the directions of the Captain of the Port Buffalo or a designated representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice of enforcement is issued under authority of 33 CFR 165.939 and 5 U.S.C. 552 (a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Broadcast Notice to Mariners or Local Notice to Mariners. If the Captain of the Port Buffalo determines that the safety zone need not be enforced for the full duration stated in this notice he or she may use a Broadcast Notice to Mariners to grant general permission to enter the respective safety zone.

R.R. Kistner,

Captain, U.S. Coast Guard, Alternate Captain of the Port Buffalo.

[FR Doc. 2021–14769 Filed 7–13–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0062]

RIN 1625–AA87

Security Zone: Electric Boat Shipyard, Groton, CT

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard will modify the security zone boundaries surrounding the Electric Boat Shipyard in Groton, Connecticut. The amendment to the Security Zone is due to the expanding operations at Electric Boat Shipyard.

DATES: This rule is effective August 13, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0062 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Marine Science Technician 3rd Class Ashley Dodd, Waterways Management Division, Sector Long Island Sound; Tel: (203) 468–4469; Email: *Ashley.M.Dodd@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section

U.S.C. United States Code

II. Background Information and Regulatory History

Electric Boat Shipyard requested a modification to expand the currently existing security zone. In response, on April 13, 2021, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Security Zone: Electric Boat Shipyard, Groton, CT (86 FR 19171). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended May 13, 2021, we received 1 comment.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The purpose of this rule is to modify the location of the existing security zone listed in 33 CFR 165.154(a)(2). Captain of the Port Long Island Sound will add a new point in the definition of the security zone and replace two turning points. This allows the zone to encompass the new building for construction of submarines and floating dry dock.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received 1 comment on our NPRM published April 13, 2021. The comment submitted by an anonymous individual addressed a clerical error to the NPRM. The word ''subversive'' should have been used instead of ''submersive'' in the sentence ''for this reason a security zone is established to safeguard from destruction, loss, or injury from sabotage or other submersive acts, or other causes of a similar nature to its waterfront facility and its vessels that they construct.'' There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

Part 165 of 33 CFR contains specific regulated navigation areas and limited access areas to prescribe general regulations for different types of limited or controlled access areas and regulated navigation areas and list specific areas and their boundaries. Section 165.154 establishes Safety and Security Zones: Captain of the Port Long Island Sound Zone Safety and Security Zones.

The Coast Guard will modify the location of the existing security zone listed in 33 CFR 165.154(a)(2)(i) Safety and Security Zones: Captain of the Port Zone Safety and Security Zones, to expand the zone and to protect a new submarine construction facility and floating dry dock being built adjacent to the current facility.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, and duration of the security zone. Vessel traffic would be able to safely transit around the security zone which would impact a small designated area of the Thames River.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received 0 comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves expanding an already existing security zone to limit access near Electric Boat Shipyard. It is categorically excluded from further review under paragraph L60a of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6 and 160.5; Departmemt of Homeland Security Delegation No. 0170.1

■ 2. Revise § 165.154 (a)(2) to read as follows:

§ 165.154 Safety and Security Zones; Captain of the Port Long Island Sound Zone Safety and Security Zones.

(a)* * *

(2) Electric Boat Shipyard, Groton, CT.

(i) *Location.* All navigable waters of the Thames River, from surface to bottom, West of the Electric Boat Corportation Shipyard enclosed by a line beginning at a point on the shoreline 41°20′ 16″ N, 72°04 ′ 47″ W; then running West to 41°20′ 16.2″ N, 72°04 ′58.0″ W; then running North to 41°20′28.7″ N, 72°05′01.7″ W; then North-Northwest to 41°20′53.3″ N, 72°05′04.8″ W; then North-Northeast to 41°21′02.9″ N, 72°05′04.9″ W; then running to shoreline at 41°21′02.9″ N, 72°04′58.2″ W (NAD 83).

(ii) *Application.* Paragraphs (a),(e), (f) of § 165.33 do not apply to public vessels or to vessels owned by, under hire to, or performing work for the Electric Boat Division when operating in the security zone.

Dated: July 8, 2021.

E.J. Van Camp,

Captain, U.S. Coast Guard, Captain of the Port Long Island Sound.

[FR Doc. 2021–14971 Filed 7–13–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0510]

RIN 1625–AA00

Temporary Safety Zone; Bear Birthday Celebration, Lake Charlevoix, Boyne City, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 500-foot radius of a fireworks display in Lake Charlevoix near Boyne City, MI. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by fireworks diplay. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sault Sainte Marie or a designated representative.

DATES: This rule is effective from 6 p.m. until 11:59 p.m. on July 31, 2021. It will be enforced from 9 p.m. until 11:00 p.m. on that day.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0510 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Deaven Palenzuela, U.S. Coast Guard Sector Sault Sainte Marie Waterways Management, U.S. Coast Guard; telephone 906–635–3223, email *ssmprevention@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. This safety zone is needed to be established by July 31, 2021 in order to protect the public from the dangers associated with a fireworks display.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because action is needed to establish a safety zone in order to protect the public from the hazards associated with the fireworks display.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sault Sainte Marie (COTP) has determined that potential hazards associated with a fireworks display on July 31, 2021, will be a safety concern for anything within a 500-foot radius of the navigable waters surrounding the fireworks launch site. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone during the fireworks display.

IV. Discussion of the Rule

This rule establishes a temporary safety zone that will be enforced from 9 p.m. through 11 p.m. on July 31, 2021.

The safety zone will cover all navigable waters within 500 feet of a fireworks display in Lake Charlevoix near Boyne City, MI in position 45°15′20.62″ N 85°03′50.33″ W. The duration of the zone is intended to protect personnel, vessels, and the marine environment in the safety zone proceeding, during and immediately after the fireworks display.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone which would impact a small designated area of Lake Charlevoix. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary safety zone lasting only 2 hours that will prohibit entry within a 500-foot radius of a fireworks display in Lake Charlevoix. It is categorically excluded from further review under paragraph L[60(a)] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165— REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0510 to read as follows:

§ 165.T09–0510 Bear Birthday Celebration, Lake Charlevoix, Boyne City, MI.

(a) *Location.* The following area is a temporary safety zone: All navigable water within 500 feet of the fireworks launching location in position 45°15′20.62″ N 85°03′50.33″ W (NAD 83).

(b) *Definitions.* As used in this section, designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Sault Sainte Marie (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within the safety zone described in paragraph (a) of this section is prohibited unless authorized by the Captain of the Port, Sault Sainte Marie or his designated representative.

(2) Before a vessel operator may enter or operate within the safety zone, they must obtain permission from the Captain of the Port, Sault Sainte Marie, or his designated representative via VHF Channel 16 or telephone at (906) 635–3233. Vessel operators given permission to enter or operate in the safety zone must comply with all orders given to them by the Captain of the Port, Sault Sainte Marie or his designated representative.

(d) *Enforcement period.* This section will be enforced from 9 p.m. until 11 p.m. on July 31, 2021.

Dated: July 8, 2021.

A.R. Jones,

Captain of the Port Sault Sainte Marie.

[FR Doc. 2021–14967 Filed 7–13–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 273

RIN 0710–AB36

Aquatic Plant Control

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Final rule.

SUMMARY: This final rule removes the U.S. Army Corps of Engineers part titled Aquatic Plant Control. This part is redundant and otherwise covers internal agency operations that have no public compliance component or adverse public impact. Therefore, this part can be removed from the Code of Federal Regulations (CFR).

DATES: This rule is effective on July 14, 2021.

ADDRESSES: Department of the Army, U.S. Army Corps of Engineers, ATTN: CECW–P (Mr. Jeremy Crossland), 441 G Street NW, Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Crossland at (202) 761–4259 or by email at *Jeremy.M.Crossland@usace.army.mil.*

SUPPLEMENTARY INFORMATION: This final rule removes from the CFR part 273 of title 33, ''Aquatic Plant Control,'' which prescribes policies, procedures and guidelines for research, planning and operations for the Aquatic Plant Control Program of the Corps under authority of section 104 of the Rivers and Harbors Act of 1958, as amended by section 104 of the Rivers and Harbors Act of 1962 and Section 302 of the Rivers and Harbors Act of 1965. This law, codified at 33 U.S.C. 610 has been amended several more times, most recently by section 1039(d) of the Water Resources Reform and Development Act of 2014 and section 1178(b) of the Water Resources Development Act of 2016. The Aquatic Plant Control Program is designed to deal primarily with weed infestations of major economic significance including those that have reached that stage and those that have that potential in navigable waters, tributaries, streams, connecting channels and allied waters. The regulation governs a program that manages cost-share authority between the Federal government and another governmental agency. This rule was initially published on June 3, 1976 (41 FR 22346). While the rule applies only to the Corps' Aquatic Plant Program, it was published, at that time, in the **Federal Register** to aid public accessibility.

The solicitation of public comment for this removal is unnecessary because the rule is out-of-date, duplicative of existing internal agency guidance, and otherwise covers internal agency operations that have no public compliance component or adverse public impact. For current public accessibility purposes, updated internal agency policy on this topic may be found in Engineer Regulation 1130-2-500, ''Project Operations Partners and Support (Work Management Policies)'' (available at *https://www.publications.usace.army.mil/Portals/76/Publications/EngineerRegulations/ER_1130-2-500.pdf*). The agency policy is only applicable to field operating activities having responsibility for the Aquatic Plant Program projects and provides guidance specific to the Corps' control of aquatic plants.

This rule removal is being conducted to reduce confusion for the public as well as for the Corps regarding the current policy which governs the Corps' Aquatic Plant Program. Because the regulation does not place a burden on the public, its removal does not provide a reduction in public burden or costs.

This rule is not significant under Executive Order (E.O.) 12866, ''Regulatory Planning and Review.''

List of Subjects in 33 CFR Part 273

Aquatic plant control, Pesticides and pests, Waterways.

PART 273—[REMOVED]

■ Accordingly, by the authority of 5 U.S.C. 301, 33 CFR part 273 is removed.

Date: July 1, 2021.

Jaime A. Pinkham,

Acting Assistant Secretary of the Army (Civil Works).

[FR Doc. 2021–14719 Filed 7–13–21; 8:45 am]

BILLING CODE 3720–58–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2021–0042; FRL–10024–87-Region 1]

Air Plan Approval; Connecticut; Definitions of Emergency and Emergency Engine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut on December 20, 2019. This revision amends the State's definitions of emergency and emergency engine in its air quality regulations. The intended effect of this action is to approve the December 20, 2019, submittal into the Connecticut SIP. This action is being taken in accordance with the Clean Air Act.

DATES: This rule is effective on August 13, 2021.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2021–0042. All documents in the docket

are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available at *https://www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that, if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID–19.

FOR FURTHER INFORMATION CONTACT: John Creilson, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square—Suite 100, (Mail code 05–2), Boston, MA 02109, tel. (617) 918–1688, email *creilson.john@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Table of Contents

I. Background and Purpose

On March 15, 2021 (86 FR 14299), EPA published a Notice of Proposed Rulemaking (NPRM) for the State of Connecticut.

The NPRM proposed approval of Connecticut's SIP revision, which replaced two definitions within the previously approved Regulations of Connecticut State Agencies (RCSA) Section 22a–174–22e, Control of NOx Emissions from Fuel-burning Equipment at Major Stationary Sources of NO_X. The revision proposed to add to the State's SIP a recent amendment to 22a–174–22e concerning the definitions of ''emergency'' and ''emergency engine,'' which became effective as a state requirement on October 8, 2019. Additionally, two compliance options were removed from RCSA section 22a–174–22e(g) in light of the revised definitions for emergency and emergency engine.

The formal SIP revision was submitted by Connecticut on December 20, 2019. The rationale for EPA's proposed action is explained in the NPRM and will not be restated here. There were no public comments received on the NPRM.

II. Final Action

EPA is approving Connecticut's December 20, 2019 SIP revision request pertaining to its definitions for emergency and emergency engine and the removal of compliance options affected by the revised definitions.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the definitions for emergency and emergency engines and the removal of compliance options affected by the revised definitions described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available through and at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).*https://www.regulations.gov* and at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone.

Dated: July 8, 2021.

Deborah Szaro,

Acting Regional Administrator, EPA Region 1.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart H—Connecticut

■ 2. Section 52.370 is amended by adding paragraph (c)(125) to read as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(125) Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on December 20, 2019.

(i) *Incorporation by reference.* (A) Regulations of Connecticut State Agencies Section 22a–174–22e, entitled ''Control of nitrogen oxide emissions from fuel-burning equipment at major stationary sources of nitrogen oxides,'' as amended October 8, 2019, as follows:

(1) 22a–174–22e (a), Definitions; (12) ''emergency'' and (13) ''emergency engine.''

(2) 22a–174–22e (g), Compliance options; (4) and (6).

3. In § 52.385, Table 52.385 is amended by adding two entries in state citations for ''22a–174–22e'' between existing entries for ''22a–174–22e: Control of nitrogen oxides . . .'' and ''22a–174–22f'' to read as follows:

§ 52.385 - EPA-approved Connecticut regulations.

* * * * *

TABLE 52.385—EPA-APPROVED REGULATIONS

Connecticut State citation	Title/subject	Dates		**Federal Register** citation	Section 52.370		Comments/description
		Date adopted by State	Date approved by EPA				
	*	*	*	*	*	*	*
22a–174–22e ...	Definitions	10/8/19	7/14/2021	[Insert **Federal Register** citation].	[Insert next available number in sequence].	paragraph	Definitions revised for ''emergency'' and ''emergency engine.''
22a–174–22e ...	Compliance options.	10/8/19	7/14/2021	[Insert **Federal Register** citation].	[Insert next available number in sequence].	paragraph	Approve subsection (g)(4) and (g)(6): Two compliance options relating to ISO-New England OP–4 removed.
	*	*	*	*	*	*	*

[FR Doc. 2021–14828 Filed 7–13–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2021–0197; FRL–8581–01–OCSPP]

Alkoxylated C8-C18 Saturated and Unsaturated Alcohol and Adipic Acid (AASUAA); Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of Alkoxylated C8-C18 Saturated and Unsaturated Alcohol and Adipic Acid; (also known as AASUAA) when used as an inert ingredient in a pesticide chemical formulation. Croda Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of Alkoxylated C8-C18 Saturated and Unsaturated Alcohol and Adipic Acid on food or feed commodities.

DATES: This regulation is effective July 14, 2021. Objections and requests for hearings must be received on or before September 13, 2021, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2021–0197, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Marietta Echeverria, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Publishing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. Can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation

in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2021–0197 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before September 13, 2021. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2021–0197 by one of the following methods.

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Background and Statutory Findings

In the **Federal Register** of March 22, 2021, (Vol. 86, No. 53 FR 15164) (FRL-10021–44), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP IN–11424) filed by Croda, Inc., 300–A Columbus Circle, Edison, NJ 08837. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of Alkoxylated C8-C18 Saturated and Unsaturated Alcohol and Adipic Acid; with a minimum number average molecular weight (in amu) of 1,300 when used as a pesticide inert ingredient (surfactant or adjuvant); CAS Reg. Nos. 397247–05–1; 227755–70–6; 397247–06–2; 1065234–83–4, and 497157–72–9. That document included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. The Agency did not receive any comments.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and use in residential settings but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing an exemption from the requirement of a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . .'' and specifies factors EPA is to consider in establishing an exemption.

III. Risk Assessment and Statutory Findings

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be shown that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d). Alkoxylated C8-C18 Saturated and Unsaturated Alcohol and Adipic Acid conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers.

1. The polymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. The polymer does contain as an integral part of its composition the atomic elements carbon, hydrogen, and oxygen.

3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 daltons.

Additionally, the polymer also meets as required the following exemption criteria specified in 40 CFR 723.250(e).

7. The polymer's number average MW of 1,300 is greater than 1,000 and less than 10,000 daltons. The polymer contains less than 10% oligomeric material below MW 500 and less than 25% oligomeric material below MW 1,000, and the polymer does not contain any reactive functional groups.

Thus, Alkoxylated C8-C18 Saturated and Unsaturated Alcohol and Adipic Acid meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to Alkoxylated C8-C18 Saturated and Unsaturated Alcohol and Adipic Acid.

IV. Aggregate Exposures

For the purposes of assessing potential exposure under this

exemption, EPA considered that Alkoxylated C8-C18 Saturated and Unsaturated Alcohol and Adipic Acid could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of Alkoxylated C8-C18 Saturated and Unsaturated Alcohol and Adipic Acid is 1,300 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since Alkoxylated C8-C18 Saturated and Unsaturated Alcohol and Adipic Acid (AASUAA) conform to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' EPA has not found Alkoxylated C8-C18 Saturated and Unsaturated Alcohol and Adipic Acid (AASUAA) to share a common mechanism of toxicity with any other substances, and Alkoxylated C8-C18 Saturated and Unsaturated Alcohol and Adipic Acid does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed Alkoxylated C8-C18 Saturated and Unsaturated Alcohol and Adipic Acid that does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative.*

VI. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of Alkoxylated C8-C18 Saturated and Unsaturated Alcohol and Adipic Acid (AASUAA).

VII. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for Alkoxylated C8-C18 Saturated and Unsaturated Alcohol and Adipic Acid, short chemical name (AASUAA).

VIII. Conclusion

Accordingly, EPA finds that exempting residues of Alkoxylated C8-C18 Saturated and Unsaturated Alcohol and Adipic Acid, Alkoxylated C8-C18 Saturated and Unsaturated Alcohol and Adipic Acid short chemical name (AASUAA) from the requirement of a tolerance will be safe.

IX. Statutory and Executive Order Reviews

This action establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

X. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal**

Register. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 7, 2021.

Marietta Echeverria,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR chapter I as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.960, amend the table by adding in alphabetical order the polymer ''Alkoxylated C8-C18 Saturated and Unsaturated Alcohol and Adipic Acid, (AASUAA), minimum number average molecular weight (in amu), 1,300'' to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

Polymer	CAS No.
* * * * * * *	
Alkoxylated C8-C18 Saturated and Unsaturated Alcohol and Adipic Acid, (AASUAA), minimum number average molecular weight (in amu), 1,300.	397247–05–1, 227755–70–6, 397247–06–2, 1065234–83–4, and 497157–72–9.
* * * * * * *	

[FR Doc. 2021–14818 Filed 7–13–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[GN Docket No. 20–32; FCC 20–150; FRS 37029]

Establishing a 5G Fund for Rural America

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget has approved new information collection requirements associated with a new or amended rule adopted in the Federal Communications Commission's *5G Fund Report and Order,* FCC 20–150. This document is consistent with the *5G Fund Report and Order,* which states that the Commission will publish a document in the **Federal Register** announcing the effective date for the new or amended rule section.

DATES: The addition of 47 CFR 54.322(c)(4), published at 85 FR 75770 on November 25, 2020, is effective July 14, 2021.

FOR FURTHER INFORMATION CONTACT: Valerie Barrish, Auctions Division, Office of Economics and Analytics, at (202) 418–0354 or *Valerie.Barrish@fcc.gov.*

SUPPLEMENTARY INFORMATION: This document announces that the Office of Management and Budget (OMB) approved the information collection requirements in 47 CFR 54.322(c)(4), on June 16, 2021. This rule was adopted in the *5G Fund Report and Order,* FCC 20–150. The Commission publishes this document as an announcement of the effective date for this new rule. OMB approval for all other new or amended rules adopted in the *5G Fund Report and Order* for which OMB approval is required will be requested, and the effective date for those rules will be announced following OMB's approval. *See* 85 FR 75770 (Nov. 25, 2020). If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 3.317, 45 L Street NE, Washington, DC 20554, regarding OMB Control Number 3060–1289. Please include the OMB Control Number in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the Commission is notifying the public that it received final OMB approval on June 16, 2021, for the information collection requirements contained in 47 CFR 54.322(c)(4). Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number for the information collection requirements in 47 CFR 54.322(c)(4) is 3060–1289. The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–1289.

OMB Approval Date: June 16, 2021.

OMB Expiration Date: June 30, 2024.

Title: Legacy Support Usage Flexibility Certification.

Form Number: N/A.

Respondents: Business or other for-profit entities, not-for-profit institutions, and state, local or tribal governments.

Number of Respondents and Responses: Up to 110 respondents and 110 responses.

Estimated Time per Response: 1.75 hours.

Frequency of Response: One-time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154, 254 and 303(r).

Total Annual Burden: 193 hours.

Total Annual Cost: $16,500.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The information collected under this collection will be made publicly available. However, to the extent that a respondent seeks to have certain information collected in response to this information collection withheld from public inspection, the respondent may request confidential treatment of such information pursuant to § 0.459 of the Commission's rules, 47 CFR 0.459.

Needs and Uses: On October 27, 2020, the Commission adopted the *5G Fund Report and Order,* FCC 20–150, in which it, among other things, adopted additional public interest obligations and performance requirements for legacy high-cost support recipients, whose broadband-specific public interest obligations for mobile wireless services were not previously detailed. The public interest obligations adopted in the *5G Fund Report and Order* for each competitive eligible telecommunications carrier (ETC) receiving legacy high-cost support for mobile wireless services require that such a carrier (1) use an increasing percentage of its legacy support toward the deployment, maintenance, and operation of voice and broadband networks that support 5G meeting the adopted performance requirements within its subsidized service area(s), and (2) meet specific 5G broadband service deployment coverage requirements and service deployment milestone deadlines that take into consideration the amount of legacy support the carrier receives. With respect to the requirement to use an increasing percentage of its legacy support toward the deployment, maintenance, and operation of voice and broadband networks that support 5G, the rules adopted in the *5G Fund Report and Order* specify that each legacy support recipient must use at least one-third of the legacy support it receives in 2021, at least two-thirds of the legacy support it receives in 2022, and all of the legacy support in 2023 and beyond for these purposes.

To address a concern that budgets and deployment plans for 2021 are largely complete, which could make it difficult for some competitive ETCs to achieve the 2021 support usage requirement, the Commission adopted a rule that affords such competitive ETCs the flexibility to use less than one-third of their legacy support in 2021 and make up for any shortfall in 2021 by proportionally increasing the requirement in 2022 (above the two-thirds of its support the competitive ETC is required to spend on 5G in that year). *See* 47 CFR 54.322(c)(4). In order to take advantage of this flexibility, a competitive ETC receiving legacy support for mobile wireless services must submit a certification in which it (1) provides information regarding the service area(s) for which it and any affiliated mobile competitive ETC(s) receive legacy support and the annual amount of support they receive in each area; (2) indicates the total amount of legacy high-cost support to be spent on the deployment, maintenance, and operation of mobile networks that provide 5G service in calendar year 2021 across the identified service areas; and (3) certifies that any 2021 spending shortfall will be made up in 2022. Only those competitive ETCs receiving legacy high-cost support for mobile wireless services that wish to avail themselves of the flexibility concerning their 2021 and 2022 legacy high-cost support usage requirements will be required to respond to this information collection. The certification will be used by the Commission to identify how much a competitive ETC that chooses to avail itself of the flexibility concerning its 2021 and 2022 legacy high-cost support usage requirements will spend on 5G in 2021 and the spending shortfall it must make up in 2022, and to confirm the competitive ETC's commitment to make up its 2021 spending shortfall in 2022 in accordance with its certification and the Commission's rules.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–14724 Filed 7–13–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 21–156; RM–11901; DA 21–768; FR ID 36873]

Television Broadcasting Services Boise, Idaho

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On April 16, 2021, the Media Bureau, Video Division (Bureau) issued a *Notice of Proposed Rulemaking* (*NPRM*) in response to a petition for rulemaking filed by Sinclair Boise Licensee, LLC (Petitioner), the licensee of KBOI–TV, channel 9 (NBC), Boise, Idaho, requesting the substitution of channel 20 for channel 9 at Boise in the DTV Table of Allotments. For the reasons set forth in the *Report and Order* referenced below, the Bureau amends FCC regulations to substitute channel 20 for channel 9 at Boise.

DATES: Effective July 14, 2021.

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, Media Bureau, at (202) 418–1647 or *Joyce.Bernstein@fcc.gov.*

SUPPLEMENTARY INFORMATION: The proposed rule was published at 86 FR 22382 on April 28, 2021. The Petitioner filed comments in support of the petition reaffirming its commitment to apply for channel 20. No other comments were filed. The Petitioner states that VHF channels have certain propagation characteristics which may cause reception issues for some viewers. In addition, KBOI–TV has received numerous complaints from viewers unable to receive the Station's over-the-air signal, despite being able to receive signals from other stations. The Petitioner also demonstrated that while the noise limited contour of the proposed channel 20 facility does not completely encompass the licensed channel 9 contour, only 180 persons in two small loss areas are predicted to lose service from KBOI–TV, a number the Commission considers *de minimis.*

This is a synopsis of the Commission's *Report and Order,* MB Docket No. 21–156; RM–11901; DA 21–768, adopted July 2, 2021, and released July 2, 2021. The full text of this document is available for download at *https://www.fcc.gov/edocs.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to this proceeding.

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

Final Rule

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICE

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. In § 73.622, in paragraph (i), amend the Post-Transition Table of DTV Allotments, under Idaho, by revising the entry for ''Boise'' to read as follows:

§ 73.622 Digital television table of allotments.

* * * * *

(i) * * *

Community	Channel No.
* * * * *	
IDAHO	
Boise	7, 20, *21, 39
* * * * *	

[FR Doc. 2021–14972 Filed 7–13–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 74

[MB Docket No. 19–193; FCC 21–70; FR ID 35680]

Low Power FM Radio Service Technical Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) adopts an Order on Reconsideration (Order) to consider petitions for reconsideration filed in response to revisions of technical rules that primarily affect Low Power FM (LPFM) radio stations.

DATES: Effective August 13, 2021.

FOR FURTHER INFORMATION CONTACT: Irene Bleiweiss, Media Bureau, Audio Division, (202) 418–2785, or via the internet at *Irene.Bleiweiss@fcc.gov.* Direct press inquiries to Janice Wise at (202) 418–8165, or via the internet at *Janice.Wise@fcc.gov.* For additional information concerning the Paperwork Reduction Act (PRA) information collection requirements contained in this document, contact Cathy Williams at 202–418–2918, or via the internet at *Cathy.Williams@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, in MB Docket No. 19–193, FCC 21–70, adopted June 15, 2021 and released on June 16, 2021. The full text of this document is available electronically via the FCC's Electronic Document Management System (EDOCS) website *https://www.fcc.gov/edocs* or by downloading the text from the Commission's website at *https://ecfsapi.fcc.gov/file/0616283713905/FCC-21-70A1.pdf* or *https://docs.fcc.gov/public/attachments/FCC-21-70A1.pdf* (Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.) Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Final Paperwork Reduction Act of 1995 Analysis

The Order does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. Therefore, it does not contain any new or modified information collection burdens for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198.

Congressional Review Act

The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule change is ''non-major'' under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of the Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Synopsis

1. *Introduction.* On June 15, 2021, the Commission adopted an Order on Reconsideration (Order), Amendment of Parts 73 and 74 of the Commission's Rules to Improve the Low Power FM Radio Service Technical Rules; FCC 21–70, MB Docket No. 19–193. The Order dismisses in part and denies in part two petitions for reconsideration of revisions to technical rules governing the Low Power FM (LPFM) service in order to improve LPFM reception and increase flexibility in transmitter siting while maintaining interference protection and the core LPFM goals of diversity and localism. The Order also restores text that was inadvertently deleted from an existing LPFM rule.

2. The Commission proposed to modify the LPFM technical rules in a Notice of Proposed Rulemaking published at 84 FR 49205 (Sept. 19, 2019). It adopted revised technical rules in a Report and Order published at 85 FR 35567 (June 11, 2020). The Commission established that the revisions would apply prospectively, i.e., to applications for which no decision had yet issued as of the rules' effective date. The goal of the revisions was to provide LPFM stations with greater flexibility, to improve their service, and to remove regulatory burdens.

3. *Petitions for Reconsideration.* The Commission received two petitions for reconsideration. One petition sought further revisions of the LPFM rules to increase maximum power, eliminate certain testing requirements for directional antennas, and revise a requirement that LPFM stations use equipment that has been certified for LPFM use. Another petition asked the Commission to extend the new rules to cases decided under former rules if the decision was not yet final when the new rules took effect. The Order dismisses and/or denies these petitions consistent with the Commission's goal of keeping LPFM requirements simple and accessible in order to facilitate construction and operation of community-oriented noncommercial stations by organizations with limited expertise and small budgets.

4. *Restoration of Inadvertently Deleted Language.* The Order takes the opportunity to correct an error that occurred when the Commission amended the Rules to permit LPFM stations to retransmit their signals over co-owned FM booster stations. In making ancillary changes to add the concept of LPFM boosters to existing rules governing booster use in other services, the Commission inadvertently deleted three words (''or FM translator'') from the existing language in section 74.1263(b) of the Rules. The Order includes a rule revision to restore that language. Because the deletion of FM translators from the scope of the rule in question was clearly inadvertent and correcting this error is noncontroversial, the Order finds that the notice and comment procedures of the

Administrative Procedure Act would serve no useful purpose and are therefore unnecessary.

Final Regulatory Flexibility Analysis

5. The Regulatory Flexibility Act of 1980, as amended (RFA), see 5 U.S.C. 603 and amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 847 (1996), requires that a regulatory flexibility analysis be prepared for notice-and-comment rule making proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' 5 U.S.C. 605(b). The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' 5 U.S.C. 601(6); See 5 U.S.C. 601(3) (incorporating by reference the definition of ''small-business concern'' in 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.'' 5 U.S.C. 601(3). In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. 15 U.S.C. 632. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. See 5 U.S.C. 601–612.

6. This Order on Reconsideration disposes of petitions for reconsideration in MB Docket Nos. 19–193 and 17–105 without making any resulting rule changes. The only rule change made in the Order on Reconsideration merely reinserts a phrase that the NPRM and Order inadvertently deleted. Because this rule change does not require notice and comment, the Regulatory Flexibility Act does not apply. Id. 601(2). In the Order in this proceeding, the Commission issued a Final Regulatory Flexibility Analysis (FRFA) that conforms to the RFA, as amended. Order, 35 FCC Rcd at 4149, Appendix C. The Commission received no petitions for reconsideration of that FRFA. This Order on Reconsideration does not alter the Commission's previous analysis under the RFA.

7. *Congressional Review Act.* The Commission will send a copy of this Order on Reconsideration to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Ordering Clauses

8. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1, 4(i), 4(j), 301, 303, 307, 308, 309, 316, and 319 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 301, 303, 307, 308, 309, 316, and 319, as well as the Local Community Radio Act of 2010, Public Law 111–371, 124 Stat. 4072 (2011), and the Administrative Procedure Act, 5 U.S.C. 553(b)(B), this Order on Reconsideration *is adopted.*

9. *It is further ordered* that the Petition for Reconsideration filed by Todd Urick, Todd Urick (Common Frequency) and Paul Bame (Prometheus Radio Project) along with Peter Gray (KFZR–LP), Makeda Dread Cheatom (KVIB–LP), Brad Johnson (KGIG–LP), David Stepanyuk (KIEV–LP), and Andy Hansen-Smith (KCFZ–LP) *is dismissed in part* and *denied in part.*

10. *It is further ordered* that the Petition for Reconsideration filed by Foundation for a Beautiful Life *is dismissed* and in the alternative *is denied.*

11. *It is further ordered* that, effective 30 days after publication in the **Federal Register**, 47 CFR 74.1263(b) *is amended* as specified in Appendix A of the Order.

12. *It is further ordered* that the Commission shall send a copy of this *Order on Reconsideration* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 74

FM broadcast booster station, LPFM booster, Time of operation, Station identification.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons stated in the preamble, the Federal Communications Commission amends 47 CFR part 74 as follows:

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

■ 1. The authority citation for part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 307, 309, 310, 336, and 554.

■ 2. Amend § 74.1263 by revising paragraph (b) to read as follows:

§ 74.1263 Time of operation.

* * * * *

(b) An FM booster or FM Translator station rebroadcasting the signal of an AM, FM or LPFM primary station shall not be permitted to radiate during extended periods when signals of the primary station are not being retransmitted. Notwithstanding the foregoing, FM translators rebroadcasting Class D AM stations may continue to operate during nighttime hours only if the AM station has operated within the last 24 hours.

* * * * *

[FR Doc. 2021–14336 Filed 7–13–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter 1

[WC Docket No. 18–213; FCC 21–74; FR ID 36878]

Promoting Telehealth for Low-Income Consumers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) offers further guidance on the administration of the Connected Care Pilot Program, including guidance on eligible services, competitive bidding, invoicing, and data reporting for selected participants, allowing selected Pilot Program participants to begin their Pilot projects.

DATES: Effective August 13, 2021.

FOR FURTHER INFORMATION CONTACT: Bryan Boyle, Wireline Competition Bureau, 202–418–7400 or by email at *Bryan.Boyle@fcc.gov.* The Commission asks that requests for accommodations be made as soon as possible to allow the agency time to satisfy such requests whenever possible. Send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order (R&O) in WC Docket No. 18–213; FCC 21–74, adopted on June 17, 2021 and released on June 21, 2021. Due to the COVID–19 pandemic, the Commission's headquarters will be closed to the general public until further

notice. The full text of this document is available at the following internet address: *https://docs.fcc.gov/public/attachments/FCC-21-74A1.pdf.*

I. Introduction

1. Through the R&O, the Commission continues its efforts to implement its Connected Care Pilot Program (Pilot Program) created pursuant to the Commission's authority under section 254(h)(2)(A) of the Communications Act. The Commission offers further guidance on the administration of the Pilot Program, including guidance on eligible services, competitive bidding, invoicing, and data reporting for selected participants.

2. The Commission received more than 200 Pilot Program applications from many health care providers whose patients lack internet connections sufficient to transmit a video visit or receive health care through connected care and providers who indicate that their systems and bandwidth are inadequate to carry the new and significantly increased loads. Selected projects will directly benefit thousands of low-income patients and veterans facing a wide variety of health challenges, such as diabetes, hypertension, stroke recovery, opioid dependency, high-risk pregnancy, pediatric heart disease, mental health conditions, and cancer. Through these projects, the Commission will develop a better understanding of how the Universal Service Fund (USF or Fund) can help support the adoption of connected care services among patients and their health care providers.

II. Discussion

3. The Commission now provides selected Pilot Program participants with additional information on the rules and requirements for participation so that they can begin their projects.

4. *Connected Care Pilot Project Selection Evaluation Criteria.* In reviewing applications, the Commission sought to identify projects that would serve a high number of patients in the target populations, in areas most in need of USF support for connected care, treating many of the targeted conditions, and using products and services eligible for purchase with USF support. To do so, the Commission used the evaluation criteria set out in the *Connected Care Report and Order,* 85 FR 19892, April 9, 2020, and reviewed applications in accordance with these criteria. For instance, the Commission considered whether an application would serve low-income or veteran patients, as the *Connected Care Report and Order* established a strong preference for Pilot projects that can demonstrate that they will primarily benefit these patient groups. For purposes of the Pilot Program, a patient is considered low-income by determining whether (1) the patient is eligible for Medicaid or (2) the patient's household income is at or below 135% of the U.S. Department of Health and Human Services Federal Poverty Guidelines, and a patient is considered a veteran if they qualify for health care through the U.S. Department of Veterans Affairs' Veterans Health Administration.

5. Pursuant to the *Connected Care Report and Order,* the Commission also considered whether an application is primarily focused on treating certain conditions, such as public health epidemics, opioid dependency, mental health conditions, high-risk pregnancy/maternal health, or chronic or recurring conditions that typically require at least several months to treat, including, but not limited to, diabetes, cancer, kidney disease, heart disease, and stroke recovery. Further, the Commission gave particular emphasis to health care providers that have either experience with providing telehealth or connected care services to patients, or a partnership with another health care provider, government agency, or designated telehealth resource center with such experience.

6. In addition, the Commission stated a desire in the *Connected Care Report and Order* to select a diverse set of projects and target Pilot Program funds to geographic areas and populations most in need of USF support for connected care. Consistent with this directive, the Commission considered whether applications would serve rural or Tribal areas or patients residing in those areas, or would serve patients in Health Professional Shortage Areas or Medically Underserved Areas. The Commission also considered whether applications would promote the goals of the Pilot Program. Lastly, the Commission reviewed applications to determine whether they sought funding for eligible products and services, to ensure that the Pilot Program would use its limited funding efficiently.

7. *Connected Care Pilot Program Requirements.* This section summarizes the requirements of the *Connected Care Report and Order,* and provides additional instructions and procedures about the administration, budget, and eligible services for the Connected Care Pilot Program. The Commission reminds all Pilot Program participants to review the Pilot Program's eligible services information prior to procuring services.

8. *Program Administration and Budget.* As a general matter, the traditional funding year period (*e.g.,* July 1 to June 30 of each year) for the Rural Health Care Program will not apply to the Pilot Program. Because of the nature of the Pilot Program, and given the funding request submission deadline and ramp-up period deadline, the Commission will not require selected Pilot Program participants to follow the traditional funding year process for the Rural Health Care Program. Pilot Program participants should therefore pay careful attention to any dates contained in official Pilot Program correspondence and on the Commission and the Universal Service Administrative Company (USAC or Administrator) web pages to ensure compliance with all applicable dates and deadlines.

9. The Commission directs USAC to commit no more than the total amount associated with each project over a three-year period not to exceed the duration of the Pilot Program. This will ensure that total disbursements remain under the program budget. Further, to fund the Pilot Program, the Commission directs USAC to collect only the total amount associated with the actual commitments for each selected project. Because maximum expenditures based on each Pilot project budget were tracked before selection, selected participants will be able to request funding and receive funding commitments for multiple funding years. Allowing funding requests and commitments to cover multiple years will reduce administrative burdens on Pilot Program participants by reducing the number of Funding Request Forms (FCC Form 462) they file and will allow them to know what their total funding commitment for the Pilot Program will be.

10. *Eligible Services.* The Pilot Program will provide Pilot Program participants funding to cover up to 85% of the cost of eligible services, which fall under the following categories: (1) Patient broadband internet access services; (2) health care provider broadband data connections; (3) connected care information services; and (4) certain network equipment. The Commission provides two clarifications on services eligible for support in the Pilot Program. First, the Commission clarifies that the Pilot Program will reimburse network equipment purchases necessary to make broadband services functional, even if the Pilot Program is not directly supporting the costs of those broadband services. The *Connected Care Report and Order* states that the Pilot Program will fund ''network equipment that is necessary to make Pilot Program funded broadband

services for connected care services functional, or to operate, manage, or control such services.'' However, Pilot Program applicants have also indicated a need for network equipment to make a supported broadband service functional even if they do not require new or upgraded broadband from the Pilot Program as part of their Pilot project, and a need for network equipment to make the connected care services they are providing through their Pilot project functional. Accordingly, some Pilot projects do not require upgraded or new broadband service to participate in the Pilot Program but do require upgraded network equipment (*e.g.,* switches) to make existing broadband services functional given the increased volume of network traffic associated with connected care services. To ensure these projects have the network equipment they need to provide broadband-enabled connected care services, the Pilot Program will provide funding to eligible, participating health care providers for necessary network equipment to make a broadband service functional for providing connected care services through the Pilot Program.

11. Second, the Commission clarifies that the Pilot Program will reimburse network equipment purchases necessary to make a connected care information service functional (*e.g.,* a server necessary for storing video conferences or facilitating video transmissions). Although the *Connected Care Report and Order* stated that equipment necessary to make a *broadband* service functional was supported, it did not specifically address eligibility of equipment necessary to make a *connected care* service functional. Many applicants requested funding for this type of network equipment and explained that this equipment was necessary, for example, to handle the increased volume of network traffic or storage needs associated with connected care services. Funding this additional network equipment for the limited purposes of the Pilot Program is consistent with the Commission's decision to fund connected care information services through the Pilot Program and is critical to the successful operation of the participating Pilot projects that requested such equipment. Further, funding this equipment for the limited purposes of the Pilot Program is within the scope of the Commission's statutory authority consistent with the legal rationale that the Commission relies on in the Healthcare Connect Fund to fund network equipment necessary to make a supported broadband service functional. To ensure these additional types of funded network equipment are within the scope of our statutory authority and Pilot Program purpose, where projects requested network equipment necessary to make a connected care service functional, the equipment must be purchased either because of the increase in internet traffic caused by the connected care services, or because the equipment would be primarily used for connected care information services. While the Commission's approach to fund network equipment necessary to make a broadband service functional even if the Pilot Program is not funding the broadband service and to fund network equipment necessary to make a connected care information service functional is more expansive than the Rural Health Care Program's (RHC) reimbursement for network equipment purchases, the Commission believes it is appropriate in this time-limited Pilot Program effort, focused on determining how USF funds can best support the trend towards connected care to be slightly more inclusive to ensure the success of selected Pilot Program participants.

12. The Pilot Program will not fund devices, including end-user connected devices (*e.g.,* tablets, smart phones, or remote patient monitoring equipment), medical equipment, health care provider administrative costs, personnel costs (including, but not limited to medical professional costs), or other miscellaneous expenses. The Pilot Program also will not fund network deployment, the construction of networks between health care providers, internal connections for health care providers, or connectivity services between health care provider sites. Pilot Program participants must cost allocate all ineligible services and/or equipment that are included in bundles, packages, or suites of services used in Pilot Program projects. Funding for Pilot Program participants is limited to three years. As a reminder, patient broadband internet access service funded through the Pilot Program is intended for patients who lack broadband or have an internet connection insufficient to receive connected care, and the funded patient broadband connection must be ''primarily'' used for activities that are integral, immediate, and proximate to the provision of connected care services to participating patients.

13. During application review, the Wireline Competition Bureau (Bureau) reviewers identified clearly ineligible services and equipment when they were apparent on the application, but USAC reviewers will review FCC Form 462s in order to take further steps to ensure that no funding will be committed for ineligible services or equipment. Pilot Program participants that seek competitive bids and submit requests for funding should refer to the Bureau's previously published guidance on eligible services and equipment to ensure that they are only requesting funding for eligible items. Pilot Program participants should be aware that selection does not guarantee that all items in an application are eligible and will be funded upon request.

14. Finally, the Commission reminds Pilot Program participants that they are prohibited from using Universal Service support to purchase or obtain any equipment or services produced or provided by a covered company posing a national security threat to the integrity of communications networks or the communications supply chain. In addition, Pilot Program participants are prohibited from using Federal subsidies to purchase, rent, lease, or otherwise obtain any covered communications equipment or service, or maintain any covered communications equipment or service previously purchased, rented, leased, or otherwise obtained. A list of covered equipment and services was posted on the Commission's website on March 12, 2021 and will be updated to reflect any future determinations.

15. *Connected Care Pilot Program Rules and Procedures.* This section provides details for Pilot Program participants about the competitive bidding process, requesting funding, receiving funding commitments, making changes to their projects, and seeking reimbursement through submitting invoices. To ensure efficient and predictable administration, the Pilot Program will use rules and procedures for the RHC Healthcare Connect Fund Program to the extent feasible. For purposes of the Connected Care Pilot Program, the Commission directs USAC to develop new versions of FCC Form 461 (Request for Services Form), FCC Form 462 (Funding Request Form), and FCC Form 463 (Invoice and Request for Disbursement Form) and make them publicly available. These forms should be clearly marked to indicate their association with the Connected Care Pilot Program and avoid confusion with other versions. Pilot Program participants may now begin the competitive bidding process and, if a competitive bidding exemption applies, may file a Request for Funding.

16. *Funding Request Process Overview.* Following selection by the Commission, Pilot Program participants can begin to follow the process outlined in this document. Generally, Pilot

projects are to operate using Pilot Program funds for no more than three years from the first date of service. Expenses for which Pilot Program funding is requested and invoiced must be incurred within three years from the first date of service for the respective project, and by no later than June 30, 2025.

• *Conduct Competitive Bidding.* The FCC Form 461 initiates the competitive bidding process for all products and services for which competitive bids are required. The Pilot Program participant will describe the required services and equipment for its project, develop scoring criteria to evaluate bids, and post the resulting request for services to USAC's website for at least 28 days. Following the 28-day posting, the Pilot Program participant must choose the most cost-effective service provider and may then enter into a contract. This requirement does not apply to any products or services for which the Pilot Program participant is exempt from seeking competitive bids pursuant to a competitive bidding exemption, as outlined in this document:

• *Request Funding.* Pilot Program participants must request funding by submitting the FCC Form 462 to USAC. Note that for Pilot Program participants in Appendices A and B, the submission of the FCC Form 462 to USAC must occur no later than six months after the effective date of this Report and Order. Any future Pilot Program selections must submit their respective FCC Form 462 to USAC no later than six months after the announcement of their selection.

• *Receive a Funding Commitment.* USAC will review the FCC Form 462 and, if approved, issue funding commitment letters (FCLs) to the Pilot Program participants (and vendors, if necessary), indicating the amount committed under the Pilot Program for the FCC Form 462. The FCL contains other important information such as the service delivery deadline, and Pilot Program participants are reminded to read their FCLs closely.

• *Begin the Pilot Project.* Pilot Program participants must begin their Pilot projects no later than six months after receipt of their FCL from USAC.

• *Make Project Modifications, if Needed.* Pilot Program participants may request site or service substitutions or contract modifications pursuant to the procedures outlined in this Report and Order.

• *Request Reimbursement.* After equipment or services have been delivered, Pilot Program participants may seek reimbursement by submitting the FCC Form 463 to USAC. Pilot Program participants are encouraged to seek reimbursement on a monthly basis, if possible. Note that certain vendors, for instance, internet Service Providers enrolled with the RHC program, will submit the FCC Form 463 directly to USAC, upon request by the health care provider (or consortium).

17. *Competitive Bidding—FCC Form 461.* In the *Connected Care Report and Order,* the Commission adopted, to the extent feasible, the competitive bidding requirements for the Healthcare Connect Fund Program for participants in the Pilot Program. Unless a competitive bidding exemption applies, Pilot Program participants must participate in a competitive bidding process, follow any additional applicable state, local or other procurement requirements, and select the most cost-effective option for services and equipment eligible for Connected Care Pilot Program support. The Commission provides further guidance on these requirements.

18. To satisfy the competitive bidding requirements, Pilot Program participants must submit an FCC Form 461 for USAC to post. In some circumstances, Pilot Program participants will be required to prepare a formal Request for Proposal (RFP) to be posted along with their FCC Form 461. The FCC Form 461 should include a description of the services and equipment for which the Pilot Program participant is seeking support.

19. The Pilot Program participant must wait at least 28 days from the date on which the Form 461 is posted on USAC's website before selecting a service provider. After seeking bids from potential service providers, Pilot Program participants should conduct a bid evaluation to select the most cost-effective means of meeting their needs, and thereafter participants may enter into a legally binding agreement with the selected service provider. Pilot Program participants may enter into a service agreement or sign a contract with the selected provider on or after the Allowable Contract Selection Date (ACSD), the day after the required number of days the FCC Form 461 is posted on the USAC website. If Pilot Program participants enter into a new contract or service agreement before the ACSD, funding will be denied for services covered under that contract or service agreement. Pilot Program participants will also be required to make certain certifications regarding the competitive bidding process before submitting the FCC Form 461. The FCC Form 461 will be made available to Pilot Program participants in USAC's online My Portal system with additional information provided to Pilot Program participants by USAC during outreach.

20. ''*Fair and Open*'' *Competitive Bidding Process.* Pilot Program participants must conduct a fair and open competitive bidding process. To satisfy the ''fair and open'' standard, all potential bidders must have access to the same information and be treated in the same manner during the competitive bidding period to ensure that the process is ''fair and open.'' Further, service providers who intend to bid on supported services may not simultaneously help the Pilot Program participant to complete its RFP or Request for Services form. Service providers who have submitted a bid to provide supported services, equipment, or facilities to a health care provider may not simultaneously help the health care provider evaluate submitted bids or choose a winning bid. Pilot Program participants must respond to all service providers that have submitted questions or proposals during the competitive bidding process. All Pilot Program participants and service providers must comply with any applicable state, Tribal, or local procurement laws, in addition to the Commission's competitive bidding requirements. The competitive bidding requirements in this section are not intended to preempt such state, Tribal, or local requirements. Additionally, the Commission's prohibitions against gifts from service providers apply to the Connected Care Pilot Program. Although service providers may make charitable contributions to Pilot Program participants, such gifts may not be directly or indirectly related to Connected Care Pilot Program procurement activities. Further, Pilot Program participants are reminded that services purchased pursuant to universal support mechanisms shall not be sold, resold, or transferred in consideration for money or any other thing of value.

21. *Competitive Bidding Exemptions.* Pilot Program participants are not required to engage in competitive bidding if a competitive bidding exemption applies. All of the competitive bidding exemptions under the Healthcare Connect Fund Program, plus an additional exemption, apply to the Pilot Program as follows:

• *Government Master Services Agreement.* The eligible health care provider seeks support for services and equipment purchased from Master Services Agreements (MSAs) negotiated by federal, state, Tribal, or local government entities on behalf of such health care providers and others, if such MSAs were awarded pursuant to applicable federal, state, Tribal, or local competitive bidding requirements;

• *Pre-approved Master Services Agreement.* The eligible health care provider opts into an existing MSA approved under the Rural Health Care Pilot Program or Healthcare Connect Fund Program and seeks support for services and equipment purchased from the MSA, if the MSA was developed and negotiated in response to an RFP that specifically solicited proposals that included a mechanism for adding additional sites to the MSA;

• *Evergreen contract.* The eligible health care provider has a multi-year contract designated as ''evergreen'' by USAC and seeks to exercise a voluntary option to extend an evergreen contract without undergoing additional competitive bidding;

• *E-Rate contract.* The eligible health care provider is in a consortium with participants in the schools and libraries universal service support program (E-Rate program) and a party to the consortium's existing contract, if the contract was approved in the E-Rate program as a master contract;

• *Annual undiscounted cost of $10,000 or less.* The eligible health care provider seeks support for $10,000 or less of total undiscounted eligible expenses for a single year, if the term of the contract is one year or less; or

• *Pre-existing contract (Connected Care Pilot Program only).* The eligible health care provider already has entered into a legally binding agreement with a service provider for services or equipment eligible for support in the Pilot Program and that legally binding agreement itself was the product of competitive bidding. The Commission clarifies that this exemption applies only when the contract was signed before the applicant was selected to participate in the Pilot Program and the contract was not entered into solely for purposes of the Pilot Program. The prior competitive bidding process must have included public solicitation of bids or the applicant must have evaluated multiple quotes or bids before signing the contract.

22. *Requests for Funding—FCC Form 462.* In the *Connected Care Pilot Program Report and Order,* the Commission indicated that additional information on filing a request for funding would be forthcoming. The Commission now lays out the process for requesting funding. Pilot Program participants must request funding from USAC by filing the FCC Form 462, a formal request for funding that provides specific information on pricing and services. Pilot Program participants in Appendices A and B must file their initial FCC Form 462(s) no later than six months after the effective date of this Report and Order, and any subsequent Pilot Program selections must file their initial FCC Form 462(s) within six months of the announcement of their selection. As discussed in this document, Pilot Program participants must wait at least 28 days from the date of posting the FCC Form 461 before signing a contract or service agreement with a service provider and filing the Form 462. The 28-day period does not apply to those Pilot Program participants that are exempt from seeking competitive bids for certain products or services. Pilot Program participants that are exempt from seeking competitive bids for some but not all, of the Pilot-supported products and services, are encouraged to seek competitive bids as necessary, and file one Form 462 seeking funding for all requested products and services, being sure to wait 28 days as necessary.

23. *Requests for Multi-Year Commitments.* Pilot Program participants may seek bids for multi-year or single-year contracts during the competitive bidding process. If a project only seeks bids for a single-year contract, it will need to conduct a new competitive bidding process for each year of the Pilot Program, unless an exemption applies. Pilot Program participants may then submit multi-year or single-year funding requests to USAC. Also, as noted in this document, the competitive bidding requirements for the Pilot Program are in addition to and do not supplant any applicable state or local procurement requirements.

24. *Funding Commitments.* After USAC reviews the FCC Form 462 and makes funding determinations, USAC will issue an FCL for each FCC Form 462 filed for the Pilot Program that details the amount of committed funding and contains other important information. The amount of funding specified in the FCL is the total amount for which a Pilot Program participant may request reimbursement. Pilot Program participants may begin to receive supported recurring services on the start date of their Pilot project. To ensure that projects start in a timely manner, Pilot Program participants may install equipment or pay for other supported non-recurring services before the start date, but may not invoice for this equipment and services until after the start date. Services must be delivered by the service delivery deadline applicable to the funding year of the last day of the funding commitment. To aid in administration of the Pilot Program, all funding commitments shall end three years from the first date of service for the respective Pilot project, and by no later than June 30, 2025. Participants that seek one-year funding commitments may access unused funds in future years of the Pilot Program's three year period. Pilot Program participants may request site and service substitutions as necessary pursuant to the process detailed in paragraph 26.

25. *Changes to Projects.* Pilot Program participants are required to report to the Commission any material change in the participating health care providers' or Pilot projects' status (*e.g.,* the health care provider site has closed, or the pilot project has ceased operations) within 30 days of such material change in status. In instances where a Pilot Program participant is unable to participate in the Pilot Program for their proposed project period, a successor may be designated by the Bureau. Further, to facilitate the tracking and monitoring of the Pilot Program budget and guard against potential waste, fraud and abuse, Pilot Program participants must notify USAC within 30 days of any decrease of 5% or more in the number of patients participating in their respective Pilot projects. Pilot Program participants can notify USAC of these changes via My Portal. The Commission directs USAC to advise the Bureau of project changes that could impact committed funding (*e.g.,* changes to the cost of patient broadband or decrease in service quantities).

26. *Site and Service Substitutions.* To provide flexibility to Pilot Program participants, the Pilot Program will permit site and service substitutions within a project, consistent with the site and service substitution rules in the Rural Health Care Program. Both individual and consortium projects may make service substitutions. USAC shall approve a site or service substitution for the Pilot Program if: (1) The substitution is provided for in the contract, within the change clause, or constitutes a minor modification; (2) the site is an eligible HCP and the service is an eligible service under the Pilot Program; (3) the substitution does not violate any contract provision or state or local procurement laws; and, (4) the requested change is within the scope of the controlling FCC Form 461, including any applicable Request for Proposal. A site or service substitution cannot increase the total funding commitment. Pilot Program participants may request site and service substitutions via My Portal.

27. *Contract Modifications.* Contract modifications are permissible if they would be considered minor and therefore exempt from state, local, or tribal competitive bidding requirements. If the jurisdiction's laws are silent or

otherwise inapplicable on whether a modification would be permitted without rebidding, the Commission adheres to the ''cardinal change'' doctrine, which looks at whether the modified terms are essentially the same as in the original contract. To qualify for reimbursement, any items provided pursuant to a minor contract modification must also be eligible services under the rules of the Pilot Program.

28. *Seeking Reimbursement—FCC Form 463.* The Commission provides additional details on invoicing requirements and processes. The Pilot Program will provide universal service support for 85% of the cost of eligible services and equipment. Consistent with the Commission's existing rules for the Healthcare Connect Fund Program, Pilot Program participants must contribute the other 15% of the cost of eligible services or equipment. Only funds from eligible sources, including the applicant or eligible health care provider participants, participating patients, or state, federal, or Tribal funding or grants, may be applied toward the health care provider's required contribution. Health care providers cannot use ineligible sources (*e.g.,* direct payments from vendors or service providers) to pay their required share of requested services or equipment.

29. After eligible equipment or services have been delivered, service providers, in conjunction with the participating health care providers, will be required to make certain certifications and submit invoicing forms, *i.e.,* FCC Form 463 (Invoice and Request for Disbursement Form), with supporting documentation to USAC. USAC will review the invoicing forms and supporting documentation and issue disbursements to the applicable service providers or vendors. So that the Pilot Program can operate easily with existing invoicing systems, service providers will receive reimbursement directly, rather than through the health care provider, consistent with the standard practice in the Healthcare Connect Fund Program. Both broadband service providers and other vendors must have a valid Service Provider Identification Number from USAC, also known as a 498 ID, to receive payments.

30. Finally, the Commission waives the procedural rule established in the *Connected Care Report and Order* that invoices be submitted monthly. While the Commission strongly encourages Pilot Program participants to submit invoices monthly when possible, requiring invoices to be submitted on a monthly basis may pose an undue administrative burden for some Pilot Program participants and would be difficult to enforce. Because the Commission is tracking the expenditures for each project to ensure that total disbursements remain under the $100 million cap, and because the Pilot Program has a number of reporting requirements to further monitor the progress of projects, requiring monthly invoicing is not necessary to ensure that total disbursements will be under the cap. The Commission therefore found good cause under § 1.3 of the Commission's rules to not require invoices to be submitted on a monthly basis, but still encourages participants to submit their invoices promptly upon incurring an expense. All invoices must be submitted to USAC by the invoice deadline for the RHC Program, which is 120 days after the service delivery deadline, but no later than six months following the conclusion of each project.

31. *Wind Down Period and Project Conclusion.* Pilot Program participants may begin receiving service and eligible network equipment upon receipt of an FCL from USAC and must begin receiving service no later than six months following receipt of the FCL. Projects are to last for three years from the first date of service, and no later than June 30, 2025. Following the conclusion of the three-year period, Pilot Program participants will have an additional six months to wind down their projects or transition to a funding source other than the Pilot Program. During this period, Pilot Program participants may submit any remaining invoices for expenses incurred during the three-year Pilot project period, submit final data reporting (discussed in paragraph 32), and conclude any administrative tasks. Additional guidance may be provided by the Bureau regarding project conclusion.

32. *Additional Pilot Program Requirements—Data Reporting and Bureau Report on Pilot.* The Commission established the Pilot Program to examine how the Fund can help support the trend towards connected care services, particularly for low-income Americans and veterans. In particular, the Commission expects that the Pilot Program will benefit many low-income and veteran patients who are responding to a wide variety of health challenges such as infectious diseases, diabetes, opioid dependency, high-risk pregnancies, pediatric heart disease, mental health conditions, and cancer. The Commission also expects that the Pilot Program will provide meaningful data that will help it better understand how USF funds can support health care provider and patient use of connected care services. To this end, the Commission established three specific goals for the Pilot Program: To determine how USF support can be used to (1) improve health outcomes through connected care; (2) reduce health care costs for patients, facilities and the health care system; and (3) support the trend towards connected care everywhere.

33. To help evaluate the Pilot Program, the Commission directed the Bureau to issue a report detailing the results of the Pilot Program after it has been completed. To assist with this report, the Commission will require Pilot Program participants to submit anonymized, aggregated data to the Bureau regarding their Pilot project. Pilot Program participants are required to submit three total reports: An annual report after their first year of funding, after their second year of funding, and a final report after their third year of funding that contains data for the third year of funding, summarizes final results, and explains whether goals of the Pilot project were met and how the Pilot project served the Commissions' goals for the program. The Bureau will draw on the data from individual Pilot projects to prepare a final report upon the conclusion of the Pilot Program.

34. The Commission directs the Bureau to develop a form template for Pilot Program participants to use in reporting data annually and at the Pilot project's conclusion. The Commission directs the Bureau to make the template available as close to the start of the Pilot projects as possible to ensure that each project can gather data while the project is underway and be in position to report to the Commission at the conclusion of each year of the Pilot project. The Commission further directs the Bureau to provide guidance on how Pilot Program participants can access the template, and how participants can submit the report to the Bureau, as well as establish deadlines as necessary. The Commission expects that Pilot Program participants will be asked to report data such as: The number of patients served and percentage of those who were low-income and veteran patients; changes from the estimated patient population; progress in meeting the project's goals and objectives; impact of funding on number of patients treated with connected care; patient satisfaction with connected care and with health status; changes in treatment adherence; reductions in emergency room or urgent care visits; decreases in hospital admissions, re-admissions or lengths of stay; reductions or improvements in condition-specific outcomes or acute incidents among those who suffer from

a chronic illness; impact of funding patient broadband connections; decreases in missed appointments; estimated cost-savings for health care providers and patients; reduced patient travel or time (*e.g.,* reduction in travel time or time missed from work); and other metrics that may demonstrate progress toward achieving the Pilot Program's goals, and general feedback on program administration. The Commission expects that the final report from Pilot Program participants will, at a minimum, include an overall summary of the information in the annual reports, an explanation of how the project helped advance the goals and objectives of the Pilot Program, an explanation of whether the Pilot project met its specific goals and objectives, information on any lessons learned concerning the provision and utilization of connected care services, and, particularly for low-income patients and veterans, lessons learned concerning patient retention, patient training, and how best to address digital literacy challenges. Pilot projects must collect data sufficient to provide substantive responses for the required reports. Failure to provide the data may result in either the elimination of the selected participant from the Pilot Program, loss or reduction of support, or recovery of prior distributions.

35. *USAC Outreach.* All Pilot Program participants listed in the R&O have 14 calendar days from the effective date of the R&O to provide or update, as needed, contact information for the lead project coordinator to USAC, including the lead project coordinator's name, mailing address, email address, and telephone number. Any future selections will need to provide or update this information within 14 calendar days of the announcement of their selection. Within 30 days of the effective date of the R&O, USAC will conduct an initial coordination meeting with Pilot Program participants identified in Appendices A and B of the R&O. For any future selections, the Commission directs USAC to conduct an initial coordination meeting with additional selected Pilot Program participants within 30 days of their selection. USAC will also conduct a targeted outreach program, such as a webinar or similar outreach, to educate and inform selectees about the Pilot Program administrative process, including filing requirements and deadlines. In addition to the structured outreach, participants are encouraged to contact USAC support staff, who will be available to respond to individual questions about how to file forms or submit proper supporting documents. Pilot Program participants can also find information on USAC's website for the Connected Care Pilot Program. And as noted in this document, most program forms and other program documents can be found in My Portal.

36. *Document Retention, Audits, and Protection Against Waste, Fraud, ad Abuse.* As in the Healthcare Connect Fund, health care providers and selected participants, in addition to maintaining records related to their Pilot projects to demonstrate their compliance with the Pilot Program rules and requirements, must also keep supporting documentation for the required reports for at least five years after the conclusion of their Pilot project and must present that information to the Commission or USAC upon request. Pilot projects will also be subject to random compliance audits to ensure compliance with the Pilot Program rules and requirements.

37. One indicator of the Pilot Program's success will be the avoidance of waste, fraud, and abuse and the careful stewardship of USF resources. Pilot Program participants must carefully adhere to program rules, file timely and accurate reports, and promptly consult with USAC when questions regarding Pilot Program rules or processes arise. The Commission retains the discretion to evaluate the uses of monies disbursed through the USF programs and to determine on a case-by-case basis that waste, fraud, or abuse of program funds occurred, and that recovery is warranted. Additionally, in the event the Commission discovers any improper activity resulting from the Pilot Program, it will subject the offending party to all available penalties at our disposal, and will direct USAC to recover funds, assess retroactive fees and/or interest, or both. The Commission remains committed to ensuring the integrity of the USF programs and will continue to aggressively pursue instances of waste, fraud, or abuse under our own procedures and in cooperation with law enforcement agencies.

38. Further, consistent with the Commission's existing rules for the Healthcare Connect Fund Program, Pilot Program participants must contribute their 15% share of the eligible costs from eligible sources (*e.g.,* the applicant, patient charges, an eligible health care provider, or state, federal, or Tribal funding or grants) and cannot apply funds from ineligible sources (including other FCC programs, such as the Universal Service Fund and the COVID–19 Telehealth Program, or direct payments from vendors or service providers). Pilot Program participants are also reminded that on their program application, they certified that no funds from any source—private, state, or federal—have been received or are expected to be received for the exact same services or equipment that are claimed as eligible for support under the Pilot Program. All Pilot Program participants are strongly encouraged to review their active certification commitments, including those related to HIPAA compliance, document retention, and proper use of funds.

39. Finally, the Commission reminds Pilot Program participants that Pilot projects are prohibited from receiving duplicative funding from the Pilot Program and the COVID–19 Telehealth Program, or any other source, for those exact same items. If a Pilot Program participant is also selected for participation in the COVID–19 Telehealth Program, it must ensure that it does not request disbursements for the same services or equipment from both programs. If any Pilot Program participant is also selected to participate in the COVID–19 Telehealth Program, the participant shall notify the Administrator immediately, and the Commission directs the Administrator to compare that participant's Pilot Program funding request(s) against its COVID–19 Telehealth Program application to ensure that participants do not receive duplicative funding.

40. *Payment Administration. FCC Red Light Rule.* To implement the requirements of the Debt Collection Improvement Act of 1996, the Commission established what is commonly referred to as the ''red light rule.'' Under the red light rule, the Commission will not take action on applications or other requests by an entity that is found to owe debts to the Commission until full payment or resolution of that debt. If the delinquent debt remains unpaid or other arrangements have not been made within 30 days of being notified of the debt, the Commission will dismiss any pending applications. If a Pilot Program participant or service provider is currently on red light status, it will need to satisfy or make arrangements to satisfy any debts that it owes to the Commission before its application can be processed.

41. *System for Award Management Registration.* All Pilot Program participants and service providers must also register with the System for Award Management (SAM). SAM is a web-based, government-wide application that collects, validates, stores, and disseminates business information

about the federal government's partners in support of federal awards, grants, and electronic payment processes. Registration in SAM provides the Commission with an authoritative source of information necessary to provide funding to Pilot Program participants and to ensure accurate reporting pursuant to the Federal Funding Accountability and Transparency Act of 2006 (FFATA), as amended by the Digital Accountability and Transparency Act of 2014 (DATA Act). Only those applicants and service providers that are actively registered in SAM will be able to receive reimbursement from the Pilot Program. Pilot Program participants and service providers that are already registered with SAM do not need to re-register with that system in order to receive payment from the Pilot Program. Pilot Program participants who are not already registered with SAM may still participate in the Pilot Program, apply for funding, and receive program commitments, but Pilot Program participants and service providers must be registered in SAM before any payments can be issued for the Pilot Program. To assist participants who are not registered with SAM, the Commission directs USAC to provide information and guidance to participants regarding the SAM registration process. To the extent that Pilot Program participants subaward the payments they receive from the Pilot Program, as defined by FFATA/DATA Act regulations, Pilot Program participants may be required to submit data on those subawards.

42. *Do Not Pay.* Pursuant to the requirements of the Payment Integrity Information Act of 2019, the Commission is required to ensure that a thorough review of available databases with relevant information on eligibility occurs to determine program or award eligibility and prevent improper payments before the release of any federal funds. To meet this requirement, the Commission and USAC will make full use of the Do Not Pay system administered by the U.S. Treasury's Bureau of the Fiscal Service. If a check of the Do Not Pay system results in a finding that a Pilot Program participant or service provider should not be paid, the Commission will withhold issuing commitments and payments. The Pilot Program participant or service provider is responsible for working with the relevant agency to correct its information in the Do Not Pay system before payment can be issued.

43. *Appeals of USAC Decisions.* Affected parties may seek review of a USAC decision pursuant to the rules and procedures outlined in §§ 54.719 to 54.725 of the Commission's rules. Specifically, an affected party may seek review of a decision by USAC by filing a request for review with USAC within 60 days of the date of the decision. An affected party may seek Commission review of a USAC decision, only after first seeking review of the decision with USAC, and may file a request for review with the Commission within 60 days after USAC's decision on appeal. An affected party may only request a waiver of the Commission's rules, or a waiver of a decision by USAC, by filing such request with the Commission, within 60 days of USAC's decision. All other requirements for appeals and requests for waiver, including the form the filings must take, can be found in §§ 54.719 to 54.725 of the Commission's rules.

44. *Delegations of Authority.* In order to ease program administration, the Commission delegates to the Bureau, consistent with the goals of the Pilot Program, the authority to waive certain program deadlines, clarify any inconsistencies or ambiguities in the Pilot Program rules, adjust Pilot project funding commitments, or to perform other administrative tasks as may be necessary for the smooth operation of the Pilot Program. The Commission also delegates to the Bureau the authority to grant limited extensions of deadlines to Pilot projects, and other authority as may be necessary to ensure a successful Pilot Program.

45. The Commission delegates financial oversight of this program to the Commission's Managing Director and direct the Office of the Managing Director (OMD) to work in coordination with the Bureau to ensure that all financial aspects of the program have adequate internal controls. These duties fall within OMD's current delegated authority to ensure that the Commission operates in accordance with federal financial statutes and guidance. OMD performs this role with respect to USAC's administration of the Commission's Universal Service programs and the Commission anticipates that OMD will leverage existing policies and procedures, to the extent practicable and consistent with the Connected Care Pilot Program, to ensure the efficient and effective management of the program. Finally, the Commission notes that OMD is required to consult with the Bureau on any policy matters affecting the program, consistent with § 0.91(a) of the Commission's rules.

III. Procedural Matters

A. Paperwork Reduction Act Analysis

46. This document contains new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, will invite the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

B. Congressional Review Act

47. The Commission will not send a copy of the R&O to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A) because no rules are being adopted in the R&O.

IV. Ordering Clauses

48. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 201, 254, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 201, 254, and 303(r) the R&O *is adopted* and *shall become effective* August 13, 2021, pursuant to 47 U.S.C. 408.

49. *It is further ordered* that, pursuant to the authority contained in sections 201, 254, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 201, 254, and 303(r), and § 1.3 of the Commission's rules, 47 CFR 1.3, the monthly invoice submission requirement *is waived*, to the extent discussed herein.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2021–14891 Filed 7–13–21; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 86, No. 132
Wednesday, July 14, 2021

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE–2017–BT–TP–0053]

RIN 1904–AE17

Energy Conservation Program: Test Procedure for Metal Halide Lamp Fixtures

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of proposed rulemaking and request for comment.

SUMMARY: The U.S. Department of Energy (''DOE'') proposes to amend its test procedures for metal halide lamp fixtures (''MHLFs'') to incorporate by reference the latest versions of relevant industry standards; clarify the selection of reference lamps used for testing; reorganize the content of the test procedure for better readability and clarity; and revise the standby mode test procedure for MHLFs. DOE is seeking comment from interested parties on the proposal.

DATES: DOE will accept comments, data, and information regarding this notice of proposed rulemaking (''NOPR'') no later than September 13, 2021. DOE will hold a webinar on Thursday, August 5, 2021, from 10:00 a.m. to 2:00 p.m. See section V, ''Public Participation,'' for details.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2017–BT–TP–0053, by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email:* to *MHLF2017TP0053@ee.doe.gov.* Include docket number EERE–2017–BT–TP–0053 in the subject line of the message.

No telefacsimiles (''faxes'') will be accepted. For detailed instructions on submitting comments and additional information on this process, see section V of this document.

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including postal mail and hand delivery/courier, the Department has found it necessary to make temporary modifications to the comment submission process in light of the ongoing Covid–19 pandemic. DOE is currently suspending receipt of public comments via postal mail and hand delivery/courier. If a commenter finds that this change poses an undue hardship, please contact Appliance Standards Program staff at (202) 586–1445 to discuss the need for alternative arrangements. Once the Covid–19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

Docket: The docket, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *https://www.regulations.gov.* All documents in the docket are listed in the *https://www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at *https://www.regulations.gov/docket?D=EERE-2017-BT-TP-0053.* The docket web page will contain simple instructions on how to access all documents, including public comments, in the docket. See section V for information on how to submit comments through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Stephanie Johnson, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1943. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Mr. Prescott Heighton, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (518) 209–1336. Email: *Prescott.Heighton@Hq.Doe.Gov.*

For further information on how to submit a comment or review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: DOE proposes to incorporate by reference the following industry standards into 10 CFR part 431:

American National Standards Institute (''ANSI'') C78.43 (ANSI C78.43–2017), ''American National Standard for Electric Lamps—Single-Ended Metal Halide Lamps,'' approved December 21, 2017.

ANSI C78.44 (ANSI C78.44–2016), ''American National Standard for Electric Lamps—Double-Ended Metal Halide Lamps,'' approved July 1, 2016.

ANSI C82.6–2015 (R2020) (ANSI C82.6–2015 (R2020)), ''American National Standard for Lamp Ballasts—Ballasts for High-Intensity Discharge Lamps—Methods of Measurement,'' approved March 30, 2020.

ANSI C82.9 (ANSI C82.9–2016), ''American National Standard for Electric Lamps— High Intensity Discharge and Low-Pressure Sodium Lamps—Definitions,'' approved July 12, 2016.

International Electrotechnical Commission (''IEC'') 62301 (IEC 62301), ''Household electrical appliances—Measurement of standby power'' (Edition 2.0, 2011–01).

Copies of ANSI C78.43–2017, ANSI C78.44–2016, ANSI C82.6–2015 (R2020), and ANSI C82.9–2016 are available at *www.ansi.org* or *www.nema.org.* Copies of IEC 62301:2011 are available on IEC's website at *https://webstore.iec.ch/home.*

For a discussion of these standards, see section IV.M.

Table of Contents

I. Authority and Background

MHLFs are included in the list of ''covered products'' for which DOE is authorized to establish and amend energy conservation standards and test procedures. (42 U.S.C. 6295(a)(19)) DOE's energy conservation standards and test procedures for MHLFs are currently prescribed at subpart S of the Code of Federal Regulations (''CFR''), part 431, §§ 431.326 and 431.324. The following sections discuss DOE's authority to establish test procedures for MHLFs and relevant background information regarding DOE's consideration of test procedures for this equipment.

A. Authority

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6311–6317) Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency. These products include metal halide lamp fixtures, the subject of this document.[3] (42 U.S.C. 6292(a)(19)) MHLFs contain metal halide lamp ballasts. Because the MHLF energy conservation standards in EPCA established a minimum efficiency for the ballasts incorporated into those fixtures, this test procedure requires measurement of metal halide lamp ballast efficiency. (42 U.S.C. 6295(hh)(1)(A))

The energy conservation program under EPCA consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of the EPCA specifically include definitions (42 U.S.C. 6291), energy conservation standards (42 U.S.C. 6295), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

The Federal testing requirements consist of test procedures that manufacturers of covered products must use as the basis for: (1) Certifying to DOE that their products comply with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s)), and (2) making representations about the efficiency of those products (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures for testing to determine whether the products comply with any relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

Federal energy efficiency requirements for covered products established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions of EPCA. (42 U.S.C. 6297(d))

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. EPCA requires that any test procedures prescribed or amended under this section shall be reasonably designed to produce test results which measure energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and shall not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

In addition, EPCA requires that DOE amend its test procedures for all covered products to integrate measures of standby mode and off mode energy consumption. (42 U.S.C. 6295(gg)(2)(A)) Standby mode and off mode energy consumption must be incorporated into the overall energy efficiency, energy consumption, or other energy descriptor for each covered product unless the current test procedures already account for and incorporate standby and off mode energy consumption or such integration is technically infeasible. If an integrated test procedure is technically infeasible, DOE must prescribe a separate standby mode and off mode energy use test procedure for the covered product, if technically feasible. (42 U.S.C. 6295(gg)(2)(A)(ii)) Any such amendment must consider the most current versions of the International Electrotechnical Commission (''IEC'') Standard 62301 [4] and IEC Standard 62087,[5] as applicable. (42 U.S.C. 6295(gg)(2)(A))

EPCA also requires that, at least once every 7 years, DOE evaluate test procedures for each type of covered products, including MHLFs, to determine whether amended test procedures would more accurately or fully comply with the requirements for the test procedures to not be unduly burdensome to conduct and be reasonably designed to produce test

[1] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020).

[2] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

[3] Because of its placement in Part A of Title III of EPCA, the rulemaking for MHLFs is bound by the requirements of 42 U.S.C. 6292. However, because MHLFs are generally considered commercial equipment, as a matter of administrative convenience and to minimize confusion among interested parties, DOE adopted MHLF provisions into subpart S of 10 CFR part 431. 74 FR 12058, 12062 (Mar. 23, 2009). Therefore, DOE will refer to MHLFs as ''equipment'' throughout the NOPR because of their placement in 10 CFR part 431. When the NOPR refers to specific provisions in Part A of EPCA, the term ''product'' is used. The location of provisions within the CFR does not affect either their substance or applicable procedure.

[4] IEC 62301, *Household electrical appliances—Measurement of standby power* (Edition 2.0, 2011–01). Published January 27, 2011.

[5] IEC 62087, *Methods of measurement for the power consumption of audio, video, and related equipment* (Edition 3.0). Published April 13, 2011.

results that reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle. (42 U.S.C. 6293(b)(1)(A) and (b)(3))

If the Secretary determines, on her own behalf or in response to a petition by any interested person, that a test procedure should be prescribed or amended, the Secretary shall promptly publish in the **Federal Register** proposed test procedures and afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such procedures. The comment period on a proposed rule to amend a test procedure shall be at least 60 days and may not exceed 270 days.[6] In prescribing or amending a test procedure, the Secretary shall take into account such information as the Secretary determines relevant to such procedure, including technological developments relating to energy use or energy efficiency of the type (or class) of covered products involved. (42 U.S.C. 6293(b)(2)) If DOE determines that test procedure revisions are not appropriate, DOE must publish its determination not to amend the test procedures. DOE is publishing this notice of proposed rulemaking (''NOPR'') in satisfaction of the 7-year review requirement specified in EPCA for both the active mode and standby mode test procedures for MHLFs. (42 U.S.C. 6293(b)(1)(A)) At this time, DOE has tentatively determined that a MHLF does not have an ''off mode,'' as defined by EPCA (see section I.B for further details).[7]

B. Background

DOE's existing test procedures for MHLFs for active mode and standby mode operation appear at Title 10 of the Code of Federal Regulations (''CFR'') part 431, subpart S, § 431.324 (''Uniform test method for the measurement of energy efficiency and standby mode energy consumption of metal halide lamp ballasts'').

The Energy Independence and Security Act of 2007 (Pub. L. 110–140; EISA 2007) amended EPCA, requiring DOE to establish test procedures for metal halide lamp ballasts based on the industry standard American National Standards Institute (''ANSI'') C82.6–2005. (42 U.S.C. 6293(b)(18)) On March 9, 2010, DOE published a final rule establishing active mode and standby mode test procedures for MHLFs based on measuring ballast efficiency in accordance with ANSI C82.6–2005 [8] (''2010 MHLF TP final rule''). 75 FR 10950. In the 2010 MHLF TP final rule, DOE determined that per EPCA's definition of ''off mode,'' MHLFs do not operate in off mode because there is no condition in which the components of an MHLF are connected to the main power source and are not already in a mode accounted for in either active or standby mode. 75 FR 10954–10955.

EISA 2007 also prescribed mandatory minimum efficiency levels for certain MHLFs manufactured on or after January 1, 2009. (42 U.S.C. 6295(hh)(1)) DOE published a final rule amending energy conservation standards for MHLFs on February 10, 2014 (''2014 MHLF ECS final rule''). 79 FR 7746. These amended standards apply to all equipment manufactured in, or imported into, the United States on or after February 10, 2017. In the 2014 MHLF ECS final rule, DOE also amended the then-existing test procedure to specify the input voltage at which a ballast is to be tested and to require measuring and calculating ballast efficiency to three significant figures. 79 FR 7758.

For this rulemaking, DOE has reviewed the current active mode and standby mode test procedures for MHLFs to determine whether any amendments are necessary.

On May 30, 2018, DOE published in the **Federal Register** a request for information seeking comments on the current test procedure for MHLFs (''May 2018 RFI''). 83 FR 24680. In the May 2018 RFI, DOE requested comments, information and data regarding several issues, including (1) the availability of reference lamps; (2) updates to the incorporated ANSI standards and the potential incorporation by reference of recent Illuminating Engineering Society (''IES''), IEC, and ANSI standards; (3) the potential impact of referencing the updated standard ANSI C78.43–2013 [9] in the definition of ''ballast efficiency'' and the need for clarifying the term ''nominal system'' in the definition of ''ballast efficiency''; (4) the prevalence of metal halide lamp ballasts capable of operating more than one lamp wattage, and how this equipment should be tested; (5) the appropriate light output for testing metal halide dimming ballasts; (6) the availability and power consumption of metal halide ballasts capable of operating in standby mode; and (7) whether high frequency electronic metal halide ballasts can be tested with the same equipment as high frequency electronic fluorescent lamp ballasts. *Id.* DOE received comments in response to the May 2018 RFI from the National Electrical Manufacturers Association (''NEMA''). This document addresses information and comments received in response to the May 2018 RFI, and proposes amendments to the test procedures for MHLFs.

II. Synopsis of the Notice of Proposed Rulemaking

In this NOPR, DOE proposes to revise its test procedures for MHLFs to: (1) Update references to industry standards; (2) clarify the selection of reference lamps to be tested with metal halide lamp ballasts; (3) reorganize the content of the test procedure for better readability and clarity; and (4) reference IEC 62301:2011 and clarify instructions for measuring standby mode energy consumption of metal halide lamp ballasts. DOE has tentatively determined that the proposed amendments described in section III of this NOPR would not alter the measured efficiency of MHLFs, or require retesting or recertification solely as a result of DOE's adoption of the proposed amendments to the test procedures, if made final. Additionally, DOE has tentatively determined that the proposed amendments, if made final, would not increase the cost of testing. DOE's proposed actions are summarized in Table II.I and addressed in detail in section III of this proposed rulemaking.

[6] DOE has historically provided a 75-day comment period for test procedure NOPRs, consistent with the comment period requirement for technical regulations in the North American Free Trade Agreement, U.S.-Canada-Mexico (''NAFTA''), Dec. 17, 1992, 32 I.L.M. 289 (1993); the North American Free Trade Agreement Implementation Act, Public Law 103–182, 107 Stat. 2057 (1993) (codified as amended at 10 U.S.C.A. 2576) (1993) (''NAFTA Implementation Act''); and Executive Order 12889, ''Implementation of the North American Free Trade Agreement,'' 58 FR 69681 (Dec. 30, 1993). However, Congress repealed the NAFTA Implementation Act and has replaced NAFTA with the Agreement between the United States of America, the United Mexican States, and the United Canadian States (''USMCA''), Nov. 30, 2018, 134 Stat. 11, thereby rendering E.O. 12889 inoperable. Consequently, since the USMCA is consistent with EPCA's public comment period requirements and normally requires only a minimum comment period of 60 days for technical regulations, DOE now provides a 60-day public comment period for test procedure NOPRs.

[7] EPCA defines 'off mode' as ''the condition in which an energy-using product—(I) is connected to a main power source; and (II) is not providing any standby or active mode function. (42 U.S.C. 6295(gg)(1)(A)(ii))

[8] American National Standards Institute. *American National Standard for lamp ballasts—Ballasts for High-Intensity Discharge Lamps—Methods of Measurement.* Approved February 14, 2005.

[9] American National Standards Institute. *American National Standard for electric lamps—Single-Ended Metal Halide Lamps.* Approved April 8, 2013.

TABLE II.I—SUMMARY OF CHANGES IN PROPOSED TP RELATIVE TO CURRENT TP

Current DOE TP	Proposed TP	Attribution
References ANSI C78.43–2004, which describes characteristics of single-ended metal halide lamps.	References the updated version ANSI C78.43–2017 which incorporates new data sheets for additional lamps and updates ballast design information in certain data sheets.	Industry TP Update to ANSI C78.43–2017, adoption of updated version recommended by NEMA.
Does not reference an industry standard for double-ended metal halide lamps.	References ANSI C78.44–2016 to specify physical and electrical characteristics for double-ended metal halide lamps, consistent with the procedure for single-ended metal halide lamps.	Specifies how to test double-ended metal halide lamps.
To define ''ballast efficiency,'' references the term ''nominal system'' in ANSI C78.43–2004, but that term does not appear in the ANSI standard.	Revises the definition of ''ballast efficiency'' to remove the term ''nominal system'' and moves testing instructions from the definition to the test procedure.	Removes inaccurate reference to ''nominal system'' in ''ballast efficiency'' definition.
Does not define ''reference lamp'' ..	States that metal halide lamps used for testing must meet the definition of a reference lamp found in ANSI C82.9–2016.	Defines ''reference lamp'' by reference to the industry standard definition of the term.
Does not provide direction for the light output level at which to test dimming ballasts in active mode.	Directs dimming ballasts to be tested in active mode while operating at the maximum input power.	Provides necessary direction for testing dimming ballasts in active mode.
Does not provide direction for which lamp to use for testing ballasts that can operate lamps of more than one wattage, or that can operate both quartz and ceramic metal halide lamps.	Directs that ballasts designated with ANSI codes corresponding to more than one lamp must be tested with the lamp having the highest nominal lamp wattage as specified in ANSI C78.43–2017 or ANSI C78.44–2016, as applicable, and that ballasts designated with ANSI codes corresponding to both ceramic metal halide lamps (code beginning with ''C'') and quartz metal halide lamps (code beginning with ''M'') of the same nominal lamp wattage must be tested with the quartz metal halide lamp. Adds definitions for ''quartz metal halide lamp'' and ''ceramic metal halide lamp''.	Accommodates new products on the market.
Incorporates by reference ANSI C82.6–2005 for the measurement of standby mode power.	Incorporates by reference IEC 62301:2011 for the measurement of standby mode power.	EPCA requirement.

III. Discussion

A. Overall

In response to the May 2018 RFI, NEMA commented that DOE should not update the MHLF test procedure. NEMA argued that further investment in MHLF technology is not warranted, as the market for these products is declining rapidly. NEMA provided multiple data sources illustrating the low installed stock of high intensity discharge (''HID'') light sources (which include metal halide lamps) and the continued reduction in metal halide usage expected due to increased LED penetration. (NEMA, No. 2 at pp. 2–3) [10] NEMA also provided metal halide ballast shipment indices which showed that metal halide ballast shipments have been declining since 2014. (NEMA, No. 3 at p. 1) NEMA added that the replacement of traditional luminaires, including metal halide, with LED luminaires has already led to substantial energy savings and a drop in overall energy consumption, and that this market shift will continue to decrease energy consumption without government regulation. NEMA concluded that DOE should not update the MHLF test procedure or related energy conservation standards due to diminishing returns on potential energy savings; the expected burden of implementing new standards and test procedures; and the resulting costs which would be passed on to the consumer. (NEMA, No. 2 at pp. 4–5)

DOE is required by EPCA to evaluate test procedures for each type of covered product at least once every 7 years to determine whether amended test procedures would more accurately or fully comply with the requirements for the test procedure to not be unduly burdensome to conduct and be reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle or period of use. (42 U.S.C. 6293(b)(1)(A)) DOE is conducting this rulemaking to satisfy this 7-year EPCA review requirement. In this NOPR, DOE is only addressing the MHLF test procedure and not the applicable energy conservation standards. As such, DOE did not specifically consider energy savings or shipments of MHLFs when evaluating whether the test procedure should be amended. However, the following sections describe the changes to the test procedure that DOE proposes to make in this NOPR and the reasons DOE proposes those changes. Section III.H.1 describes the industry costs associated with the proposed changes, and section IV.B describes the impact on small businesses.

Although DOE is proposing revisions only to certain parts of the existing test procedure, DOE invites comment on all aspects of DOE's test procedure for MHLFs, including those provisions appearing at 10 CFR 429.54 and 10 CFR part 431, subpart S, as well as comments on current best practices and technological developments that may warrant additional amendments.

B. Scope

EPCA and DOE regulations define MHLF as a light fixture for general lighting applications designed to be operated with a metal halide lamp and a ballast for a metal halide lamp. (42 U.S.C. 6291(a)(64) and 10 CFR 431.322). Metal halide ballast is defined as a ballast used to start and operate metal halide lamps. (42 U.S.C. 6291(a)(62) and 10 CFR 431.322). DOE defines metal halide lamp as an HID lamp in which the major portion of the light is produced by radiation of metal halides and their products of dissociation, possibly in combination with metallic

[10] A notation in this form provides a reference for information that is in the docket of DOE's rulemaking to review test procedures for metal halide lamp fixtures (Docket No. EERE–2017–BT–TP–0053). This notation indicates that the statement preceding the reference is included in document number 2 in the docket for the MHLF test procedure rulemaking, at pages 2 through 3.

vapors. (42 U.S.C. 6291(a)(63) and 10 CFR 431.322).

C. References to Industry Standards

The MHLF test procedure currently incorporates by reference the 2005 version of ANSI C82.6 (''ANSI C82.6–2005'') and the 2004 version of ANSI C78.43 (''ANSI C78.43–2004'').[11] Industry periodically updates its test procedure standards to account for changes in technology and/or developments in test methodology and equipment. In reviewing the current test procedure, DOE noted that updated versions of the referenced industry standards are available. DOE compared these updated versions to those versions currently referenced by DOE's test procedure to determine to what extent, if any, incorporating by reference the latest industry standards would alter the measured energy efficiency or measured energy use, as determined under the existing test procedure, as required by EPCA. (42 U.S.C. 6293(e)(1)) Specifically, DOE reviewed the 2020 version of ANSI C82.6 (''ANSI C82.6–2015 (R2020)'') [12] and the 2017 version of ANSI C78.43 (''ANSI C78.43–2017'') [13] for this purpose. In its review of the updated versions of industry standards, DOE tentatively determined that the changes would not result in a change in measured values or test burden. (See sections III.C.1 and III.C.2 for further details.)

In addition to updating existing references to industry standards in DOE's test procedure with the most recent versions, DOE proposes to incorporate by reference additional standards related to the testing of MHLFs that are not already referenced in the current test procedure. Specifically, DOE proposes to incorporate by reference ANSI C78.44–2016 [14] to provide lamp characteristics for double-ended metal halide lamps, ANSI C82.9–2016 [15] to reference certain definitions, and IEC 62301:2011 for measurement of standby power. (See sections III.C.3 and III.C.4 for further details.) The following sections discuss in detail the new industry standards proposed for incorporation in this NOPR.

1. ANSI C82.6

ANSI C82.6–2005 is an industry standard that describes the procedures to be followed, and the precautions to be taken, in measuring the performance of ballasts that operate HID lamps. In a public meeting held on December 19, 2008, during the NOPR stage of the rulemaking process culminating in the 2010 MHLF TP final rule, NEMA informed DOE that ANSI C82.6–2005 was in the process of being revised. 75 FR 10952. Because the revised ANSI C82.6 standard was not complete at the time of the 2010 MHLF TP final rule, DOE was unable to incorporate it by reference in its test procedure for metal halide lamp fixtures. *Id.* However, DOE incorporated several of the proposed revisions to ANSI C82.6–2005 directly in the DOE test procedure based on information provided by NEMA in written comments.

DOE's current test procedure directly references ANSI C82.6–2005 for the specifications of instruments to be used for testing, test conditions and setup, and measurements. Specifically, DOE's current test procedure references section 4 (''General Conditions for Electrical Performance Tests'') and section 6 (''Ballast Measurements [Multiple-Supply Type Ballasts]'') of ANSI C82.6–2005. DOE has identified several updates made to sections 4 and 6 in the 2020 version of ANSI C82.6, all of which DOE has tentatively determined are minor changes that would help further clarify and/or reaffirm the DOE test procedure and would not affect measured values under the DOE test procedure. The following paragraphs include a detailed discussion of each update.

First, the 2020 version of ANSI C82.6 added a requirement that the ballast under test must be operated until it reaches equilibrium, thereby ensuring stable conditions for testing. DOE notes that this requirement is already included in DOE's test procedure based on feedback received from NEMA in the previous rulemaking in anticipation of changes to ANSI C82.6–2005. (NEMA, No. 24 [16] at p. 3) Hence, DOE has tentatively determined that, if incorporated by reference, this revision would not impact measured values.

Second, the 2020 version of ANSI C82.6 provided greater flexibility by recommending the use of either a ''make-before-break'' or fast-acting switch for the basic stabilization method when switching a reference lamp from a reference ballast circuit to a test ballast circuit. Previously, a ''make-before-break'' switch was specified only for high pressure sodium lamps. DOE notes that this recommendation is already included in DOE's test procedure based on feedback received from NEMA in the previous rulemaking in anticipation of changes to ANSI C82.6–2005. (NEMA, No. 24 [17] at p. 3) Hence, DOE has tentatively determined that this revision would not impact measured values.

Third, the 2020 version of ANSI C82.6 modified the heading of section 4.4.3 from ''Alternative Stabilization Method'' to ''Alternative Stabilization Method (Electronic Ballasts),'' indicating that the alternative stabilization method is for use with electronic ballasts. Because DOE's current test procedure already specifies that the alternative stabilization method should be used for low-frequency electronic ballasts, DOE interprets the revised section heading as simply a clarification. In addition, ANSI C82.6–2015 (R2020) added an annex with low-frequency electronic reference ballast characteristics (''Annex A Low-Frequency Electronic Reference Ballast'') for the testing of low-frequency electronic ballasts. DOE has tentatively determined that, if incorporated, this addition will improve consistency and repeatability of measurements under the DOE test procedure, and would not impact measured values.

Fourth, the 2020 version of ANSI C82.6 added requirements pertaining to stabilization. The updated standard includes a requirement in the alternative stabilization method that lamps used for testing should be stable. Using a stable lamp in a test would be considered industry ''best practice,'' but was not specified as a requirement in ANSI C82.6–2005 or the DOE test procedure. The alternative stabilization method is used when it is not possible to keep the lamp from extinguishing, as required in the basic stabilization method. DOE has tentatively determined that, if incorporated, the lamp stability requirement would provide helpful specificity in the alternative stabilization method.

[11] American National Standards Institute. *American National Standard for electric lamps—Single-Ended Metal Halide Lamps.* Approved May 5, 2004.

[12] American National Standards Institute. *American National Standard for Lamp Ballasts—Ballasts for High-Intensity Discharge Lamps—Methods of Measurement.* Approved March 30, 2020.

[13] American National Standards Institute. *American National Standard for electric lamps—Single-Ended Metal Halide Lamps.* Approved December 21, 2017.

[14] American National Standards Institute. *American National Standard for Electric Lamps—Double-Ended Metal Halide Lamps.* Approved July 1, 2016.

[15] American National Standards Institute. *American National Standard for Lamp Ballasts—High-Intensity-Discharge and Low-Pressure Sodium Lamps-Definitions.* Approved July 12, 2016.

[16] This document was submitted to the docket of DOE's rulemaking to review energy conservation standards for fluorescent lamp ballasts (Docket No. EERE–2008–BT–TP–0017).

[17] This document was submitted to the docket of DOE's rulemaking to review energy conservation standards for fluorescent lamp ballasts (Docket No. EERE–2008–BT–TP–0017).

ANSI C82.6–2015 (R2020) also defines the term ''operational stability'' in the alternative stabilization method as when three consecutive measurements of the lamp's electrical characteristics are within 2.5 percent of the preceding measurement over a five minute period. DOE's test procedure requires only lamp power, rather than all lamp electrical characteristics, be within 2.5 percent of the preceding measurement. DOE has tentatively determined that the updated definition of ''operational stability,'' if incorporated, would improve testing consistency and repeatability when using the alternative stabilization method, and would not impact measured values. (See section III.D.2.a for further details on clarifications to stabilization criteria in DOE's test procedure.)

Fifth, the 2020 version of ANSI C82.6 added a requirement that electronic HID ballasts must be measured with digital instruments. DOE has tentatively determined that, if incorporated, measuring electronic HID ballasts with digital instruments would improve consistency and repeatability of measured values, and would not impact measured values.

Sixth, the 2020 version of ANSI C82.6 updates the list of pertinent measurements for electronic and magnetic ballasts. Additional measurements applicable to both electronic and magnetic ballasts include those pertaining to: (1) Extinction voltage and (2) application requirements—end of life. Additional measurements applicable only to electronic ballasts include: (1) Inrush current; (2) hot re-strike time; (3) starting time; (4) power regulation; (5) rise and fall time; and (6) lamp stability. The DOE test procedure requires measurements to determine ballast efficiency (*i.e.,* ballast input power, lamp output power). DOE has tentatively determined that because the additional measurements listed in ANSI C82.6–2015 (R2020) are not necessary to determine ballast efficiency, they are not required by the DOE test procedure and, therefore, will not impact measured values.

Seventh, the 2020 version of ANSI C82.6 includes new sections that specify instrumentation to use and how to take measurements when measuring input current; current total harmonic distortion (''THD''); input power; and lamp voltage, current, and power for determining lamp operating limits. Specifications on taking these measurements for modulated signals were also added. DOE has tentatively determined that, if incorporated, updated instructions on measuring input current THD, input power, and lamp voltage, lamp current, and lamp power in ANSI C82.6–2015 (R2020) would improve consistency and repeatability of measured values, and would not impact measured values under the DOE test procedure.

Eighth, the 2020 version of ANSI C82.6 added an equation specifying that ballast efficiency is the reference lamp power divided by the ballast input power. The DOE test procedure specifies that ballast efficiency is calculated by dividing the measured lamp output power by the measured ballast input power. Hence, DOE has tentatively determined that because the added equation in ANSI C82.6–2015 (R2020) is the same as DOE's current ballast efficiency equation, it reaffirms the DOE test procedure.

At the time of the publication of the May 2018 RFI, the most recent available version of ANSI C82.6 was a 2015 version of the standard.[18] Hence, in the May 2018 RFI, DOE asked for comment on the potential impact of incorporating by reference ANSI C82.6–2015 and any potential differences in testing under the 2015 version of ANSI C82.6, as compared to the 2005 version. 83 FR 24682. In response to DOE's request, NEMA commented that no adverse effects would be expected from adopting this revised edition of ANSI C82.6. NEMA noted that the changes build upon the previous version by widening its scope to include low-frequency square wave electronic ballasts and providing clarifications to the standard. NEMA cited as enhancements to the standard the revised description of the alternative stabilization method for electronic ballasts; the requirement for the exclusive use of digital instruments with electronic ballasts; and the addition of a ballast efficiency calculation as enhancements to the standard. (NEMA, No. 2 at p. 5)

DOE has determined that there are no differences between the 2020 version and the 2015 version of ANSI C82.6 and that the 2020 version is a reaffirmation of the 2015 version. Hence, NEMA's comments on the 2015 version are also applicable to the 2020 version of ANSI C82.6. DOE agrees with NEMA that adopting the updated ANSI C82.6 standard should not cause any adverse effects on testing. DOE has tentatively determined that the changes discussed do not result in substantive changes to test setup and methodology, and would not affect measured values. For the reasons discussed in this section, DOE proposes to incorporate by reference the 2020 version of ANSI C82.6. DOE requests comment on its proposal to incorporate by reference ANSI C82.6–2015 (R2020) into the DOE test procedure.

2. ANSI C78.43

ANSI C78.43 is an industry standard that sets forth the physical and electrical characteristics for single-ended metal halide lamps operated on 60 Hertz (''Hz'') ballasts. As discussed in the May 2018 RFI, upon reviewing the current test procedure, DOE found that this industry standard, referenced in the DOE definition of ''ballast efficiency,'' has been updated. 83 FR 24682. Per DOE regulations, ''ballast efficiency,'' or the efficiency of a lamp and ballast combination, is defined as the measured operating lamp wattage (*i.e.,* output power) divided by the measured operating input wattage (*i.e.,* input power), expressed as a percentage. 10 CFR 431.322. The input and output power of the ballast must be measured while the ballast is operating a reference lamp. The 2004 version of ANSI C78.43 (ANSI C78.43–2004) is incorporated by reference in DOE's regulations to describe the requirements for various fixture components used when measuring ballast efficiency. *See* 10 CFR 431.323. Specifically, the definition of ''ballast efficiency'' states that the lamp and capacitor (when provided) must constitute a nominal system in accordance with ANSI C78.43–2004. However, the standard does not define the term ''nominal system.'' ANSI C78.43–2004 does contain the physical and electrical requirements that single-ended metal halide lamps operated on 60 Hz ballasts must meet to qualify as reference lamps.

In the May 2018 RFI, DOE requested comment on the potential impact of adopting the 2013 version of ANSI C78.43. 83 FR 24682. However, an updated version of ANSI C78.43 (ANSI C78.43–2017), which compared to ANSI C78.43–2013 added new lamp datasheets, was published in April 2018. Compared to the 2013 version, the changes in ANSI C78.43–2017, are mainly updates to certain lamp datasheets related to lamp designations, physical descriptions of lamps, and minor changes to test parameters. These new datasheets in ANSI C78.43–2017 incorporate datasheets for additional lamp types which, if adopted, would provide characteristics for additional reference lamps to use for testing. The lamp datasheets provide the physical and electrical characteristics for specific

[18] American National Standards Institute. *American National Standard for Lamp Ballasts—Ballasts for High-Intensity Discharge Lamps—Methods of Measurement.* Approved February 20, 2015.

lamps. Ballasts operating the lamps in these newly incorporated datasheets are currently certified in DOE's Compliance Certification Management System (''CCMS'') database. Hence, these ballasts are already being tested using a certain set of lamp characteristics. Because lamp datasheets are based on industry consensus, it is likely that the characteristics in the new datasheets are the same as those being used in general practice. Therefore, DOE tentatively concludes that adopting the 2017 version of ANSI C78.43 is unlikely to increase testing burden or impact measured values.

In addition, ANSI C78.43–2017 updated existing datasheets with information on magnetic ballast design and electronic low-frequency square wave ballast design. Compared to the 2013 version, ANSI C78.43–2017 makes minor changes to test parameters in the magnetic ballast design section and specifies basic ignitor requirements in the electronic low frequency square wave ballast design section. ANSI C78.43–2017 also updated the normative references to remove, add, and replace versions of certain industry standards. Because DOE is proposing to reference ANSI C78.43–2017 only when specifying requirements for reference lamps, only parameters that impact the reference lamp such as reference ballast characteristics and values for 100-hour rated lamp wattage, current, and voltage would impact ballast efficiency. None of these parameters are changed in the revisions found in ANSI C78.43–2017. Therefore, DOE has determined that the additional information in ANSI C78.43–2017 for electronic low-frequency square wave ballast design will not affect measured values for ballast efficiency.

In response to the May 2018 RFI, NEMA suggested that DOE incorporate by reference the 2017 version of ANSI C78.43 rather than the 2013 version since the 2017 version included additional lamp types. NEMA concluded that no negative impact was expected from adopting ANSI C78.43–2017. (NEMA, No. 2 at p. 5)

DOE agrees that ANSI C78.43–2017 should be incorporated by reference. DOE has tentatively determined that revisions reflected in ANSI C78.43–2017 would not result in a change in measured values under the test procedure, and the additional datasheets provide characteristics for additional reference lamps to use for testing, thus improving consistency and repeatability of the DOE test procedure. DOE has also tentatively determined that the minor updates to existing datasheets would not result in changes to test setup or methodology. To align with the latest version of the industry standard, DOE proposes to incorporate by reference ANSI C78.43–2017. DOE requests comment on its proposal to incorporate by reference ANSI C78.43–2017 into the DOE test procedure.

In addition to specifying reference lamps in the DOE test procedure, ANSI C78.43 appears as a reference in the definition of ''ballast efficiency'' in DOE's regulations at 10 CFR 431.322. Specifically, the definition states that a lamp and capacitor, if one is present, constitutes a nominal system in accordance with ANSI C78.43. In the May 2018 RFI, DOE requested comment on clarifying the term ''nominal system.'' 83 FR 24682. In response, NEMA stated it was unclear how ANSI C78.43 can be used in the definition of ''ballast efficiency.'' Further, NEMA commented that the term ''nominal system'' is not defined in any edition of ANSI C78.43, but the term could be enhanced by specifying that the efficiency of a metal halide ballast be measured according to test methods described in ANSI C82.6–2015. NEMA added that this industry standard requires the use of (1) a stable, low impedance input voltage, per section 4.1; (2) a nominal (electrical) system voltage (''V'') as described in the Metal Halide Luminaire rule [19] (such as 277 V); (3) a stable lamp, per section 4.4.1 and 4.4.2; and (4) a capacitor (if provided) that shall not deviate more than 3 percent from its nominal value. (NEMA, No. 2 at p. 6)

DOE tentatively concludes that a reference to the currently referenced 2004 version or the most recent 2017 version of ANSI C78.43 for the requirements of a ''nominal system'' within the definition of ''ballast efficiency'' at 10 CFR 431.322 may result in confusion since the term ''nominal system'' is not defined within either version of the standard. DOE appreciates NEMA's suggestion for enhancing the term ''nominal system'' by specifying that ballast efficiency be measured according to requirements in ANSI C82.5–2015. However, in this NOPR, DOE is already applying NEMA's suggestion by proposing to reference ANSI C82.6–2015 (R2020) for test conditions and stabilization (see sections III.D.1.a and III.D.2.a, respectively) in the DOE test procedure. Further NEMA's suggested specifications are not appropriate for 10 CFR 431.322, which specifies only definitions. Therefore, DOE proposes to remove the statement referencing ''nominal system'' and ANSI C78.43 since the test procedure in its entirety outlines the system requirements when testing the ballast efficiency of a metal halide lamp ballast. See section III.F for a complete description of DOE's proposed changes to the definition of ''ballast efficiency.''

In summary, DOE is proposing to incorporate by reference ANSI C78.43–2017 in the DOE test procedure found at 10 CFR 431.324, but remove the reference to ANSI C78.43 from the definitions found at 10 CFR 431.322.

3. ANSI C78.44 and ANSI C82.9

As stated previously, DOE is proposing to incorporate by reference two new industry standards in the active mode test procedure for MHLFs. In particular, ANSI C78.44–2016 specifies the physical and electrical requirements for double-ended metal halide lamps operated on 60 Hz ballasts. Metal halide ballasts are tested with lamps that should adhere to physical and electrical specifications. These specifications are provided in ANSI C78.43 for single-ended metal halide lamps and in ANSI C78.44 for double-ended metal halide lamps. The current DOE test procedure incorporates ANSI C78.43–2005 as a reference for single-ended metal halide lamps but does not reference any version of ANSI C78.44. DOE has tentatively determined that it is necessary to reference ANSI C78.44–2016 for double-ended metal halide lamps. DOE has also tentatively determined that the inclusion of ANSI C78.44–2016 would ensure that necessary specifications are being provided for testing metal halide ballasts that operate double-ended metal halide lamps. DOE requests comment on its proposal to incorporate by reference ANSI C78.44–2016 into the DOE test procedure.

DOE proposes to specify that the metal halide lamps used for testing must meet the definition of a reference lamp as defined by ANSI C82.9–2016. The definition specifies the lamp be seasoned for 100 hours, a requirement that is already in the current DOE test procedure. In addition, the definition of reference lamp in ANSI C82.9–2016 states that a reference lamp has electrical characteristics within ±2 percent of the rated values. Industry is likely already adhering to stipulations for reference lamps as specified in ANSI C82.9–2016. Specifying that reference lamps meet the definition in ANSI C82.9–2016 would provide an industry reference for the current seasoning

[19] NEMA was likely referring to paragraph (b)(1)(iii) of Title 10 of the Code of Federal Regulations (CFR) part 431, subpart S, § 431.324 (''Uniform test method for the measurement of energy efficiency and standby mode energy consumption of metal halide lamp ballasts'').

requirement and ensure that industry-accepted requirements are followed when identifying a reference lamp. Therefore, DOE proposes to incorporate by reference ANSI C82.9–2016 in 10 CFR 431.323. DOE requests comment on its proposal to incorporate by reference ANSI C82.9–2016 into the DOE test procedure.

4. IEC 62301

As discussed in section I.A, EPCA directs DOE to amend its test procedures for all covered products to incorporate a measure of standby mode and off mode energy consumption, taking into consideration the most recent versions of IEC 62301 and IEC 62087, if technically feasible. (42 U.S.C. 6295(gg)(2)) Thus, the 2010 MHLF TP final rule established a test method for measuring standby mode power (42 U.S.C. 6295(gg)(2)(A)). 75 FR 10950, 10959–10961. DOE developed the standby mode test method for metal halide lamp ballasts to be consistent with the industry standard IEC 62301:2005 [20] but also referenced language and methodologies presented in ANSI C82.6–2005. 75 FR 10951. To improve the clarity of the standby mode test method, DOE proposes to directly incorporate by reference the most recent version, IEC Standard 62301:2011 for measuring the energy consumption of MHLFs in standby mode. (See section III.E for more information.)

D. Proposed Amendments to Active Mode Test Method

As a result of DOE's proposed amendments to the active mode test method discussed in this section, DOE is proposing modifications to both the active mode test method and the organization of 10 CFR 431.324 to improve readability. Specifically, DOE is proposing changes to the test conditions and setup, as well as the test method for the measurement of ballast efficiency of MHLFs. DOE also proposes to state that the language in 10 CFR 431.324 would take precedence if there is a conflict between referenced industry standards and the revised DOE test procedure. DOE requests comment on both the general instructions of the active mode test method and the proposed modifications to the organization of 10 CFR 431.324. DOE discusses the proposed amendments to the active mode test method in greater detail in the sections that follow.

[20] International Electrotechnical Commission. *Household electrical appliances—Measurement of standby power (Edition 1.0).* Published June 13, 2005.

1. Test Conditions and Setup

DOE proposes to amend the test conditions and setup paragraph of the active mode test procedure in 10 CFR 431.324 to: (1) More accurately reference industry standards and the relevant sections of those standards; (2) provide direction for testing metal halide lamp ballasts that operate lamps of different wattages or lamp types; and (3) specify testing of dimming metal halide lamp ballasts at maximum input power. DOE is proposing to revise the heading of paragraph (b)(1)(i) of existing 10 CFR 431.324 from ''Test Conditions'' to ''Test Conditions and Setup'' and redesignate it as paragraph (b)(2) of the revised 10 CFR 431.324 to align with proposed additions to this paragraph (b) pertaining to test setup. DOE has tentatively determined that the proposed updates pertaining to test conditions and setup would not change measured values used for certifying compliance with existing energy conservation standards for MHLFs. The specific changes are discussed in further detail in the sections that follow.

a. General Test Conditions

Paragraph (b)(1)(i) of 10 CFR 431.324 currently references section 4.0, ''General Conditions for Electrical Performance Tests,'' of ANSI C82.6 for power supply, ballast test conditions, lamp position, lamp stabilization, and test instrumentation. DOE proposes to remove lamp stabilization from the description of test conditions because lamp stabilization is part of the test method rather than a test condition, and to better align the test procedure with the organization of the updated ANSI C82.6 standard. DOE proposes to include instructions for the lamp stabilization process in the test method paragraph of 10 CFR 431.324 and discusses these proposed changes in section III.D.2. Under this paragraph, DOE proposes to include specification that the circuits used for testing must be in accordance with the circuit connections set forth in section 6.3 of ANSI C82.6.

b. Dimming Ballasts

DOE established an active mode test method in the 2010 MHLF TP final rule which incorporated relevant sections of ANSI C82.6–2005 to measure ballast efficiency as required by EPCA (42 U.S.C. 6293(b)(18)). 75 FR 10950. DOE also clarified in the 2010 MHLF TP final rule that active mode applies to a functioning ballast operating with any amount of rated system light output (*i.e.,* greater than zero percent), and noted that if a ballast is dimmed (*i.e.,* operating the light source at more than zero percent, but less than 100 percent), the lamp and the ballast are both still in active mode. 75 FR 10953. DOE notes that in the case of dimming ballasts, where input power can vary, a specification regarding how to test these ballasts is necessary. DOE requested comment in the May 2018 RFI on whether it is common industry practice to test dimming metal halide ballasts at 100 percent light output. 83 FR 24682.

NEMA responded that dimmable HID ballasts are commonly tested while operating at maximum light output, but also added that most HID ballasts are not dimmable. (NEMA, No. 2 at p. 6) DOE agrees that the market for dimmable metal halide ballasts is small. Consistent with NEMA's comment, DOE is clarifying testing requirements for such ballasts by proposing that dimming metal halide lamp ballasts must be tested when operating at the maximum input power. DOE requests comment on the proposal to specify that dimming metal halide lamp ballasts be tested at maximum input power.

c. Reference Lamps

MHLFs must be tested for ballast efficiency while operating reference lamps. In the May 2018 RFI, DOE requested comment on the availability of reference lamps. 83 FR 24682. NEMA responded that metal halide lamps are not sold as reference lamps; however, a small percentage of regular metal halide lamps can meet the reference lamp specifications. NEMA added that the quantity of potential reference lamps available is adequate since the demand for reference lamps is low due to limited product development and testing. (NEMA, No. 2 at p. 5)

DOE appreciates NEMA's confirmation that the availability of reference lamps for metal halide ballast testing is sufficient, and DOE is proposing several additions to the test conditions and setup paragraph of 10 CFR 431.324 to clarify the selection of metal halide lamps used in testing metal halide lamp ballasts. Metal halide lamp ballasts are to be tested with reference lamps. ANSI C82.9–2016 provides definitions related to specific terms used in industry standards for HID lamps and ballasts. Thus, DOE proposes to specify that the metal halide lamps used for testing must meet the definition of a reference lamp as defined by ANSI C82.9–2016. In addition, ANSI C78.43–2017 and ANSI C78.44–2016 specify the physical and electrical requirements that single-ended and double-ended metal halide lamps operated on 60 Hz ballasts must meet to qualify as reference lamps. Therefore, DOE

proposes that the metal halide lamps used for testing must also be within the acceptable range for a reference lamp of the rated values specified in ANSI C78.43–2017 and ANSI C78.44–2016 for single-ended metal halide lamps and double-ended metal halide lamps, respectively.

DOE also requested comment in the May 2018 RFI on the prevalence of metal halide ballasts capable of operating more than one lamp wattage, and how this equipment should be tested. 83 FR 24682. NEMA responded that metal halide ballasts capable of operating more than one lamp wattage make up a very small and decreasing fraction of the market, and that they should not be added to the scope of the regulation. NEMA noted that HID ballasts are tested with their corresponding lamps, and that ballasts capable of operating multiple lamp wattages would be tested with multiple lamps. (NEMA, No. 2 at p. 6)

DOE notes that metal halide ballasts capable of operating multiple lamp wattages currently fall within multiple basic models. No specification regarding the reference lamp to be used in testing metal halide lamp ballasts, pertaining to either lamp wattage or lamp type, is currently provided in 10 CFR 431.324. Thus, DOE is proposing revisions to the test procedure to clarify the wattage and type of reference lamp to be used for testing.

Section 6.18 of ANSI C82.6–2015 (R2020) states that, if a ballast can operate multiple lamp types, some (unspecified) regulations require that a ballast be tested with the highest lamp power specified by the manufacturer. Based on a recent survey of the market, DOE identified metal halide lamp ballasts that may be able to operate lamps of different wattages (*e.g.,* a ballast that can operate a 70 W lamp or 100 W lamp). Thus, DOE is proposing to add the requirement to 10 CFR 431.324 that metal halide lamp ballasts designated with ANSI codes corresponding to more than one lamp must be tested with the lamp having the highest nominal lamp wattage as specified in ANSI C78.43–2017 or ANSI C78.44–2016, as applicable. DOE also found some ballasts that can operate both ceramic metal halide lamps and quartz metal halide lamps. Based on data collected for DOE's HID lamps final rule determination published on December 9, 2015 (80 FR 76355),[21] DOE has tentatively determined that quartz metal halide lamps are more popular than ceramic metal halide lamps. Thus, DOE is proposing to add a requirement to 10 CFR 431.324 that ballasts designated with ANSI codes corresponding to both ceramic metal halide lamps (code beginning with ''C'') and quartz metal halide lamps (code beginning with ''M'') of the same nominal lamp wattage must be tested with the quartz metal halide lamp. DOE requests comment on the proposed requirements for selecting reference lamps for ballasts capable of operating lamps of different wattages or lamp types, and specifically the proposals to test with the highest lamp wattage and to test with quartz metal halide lamps.

2. Test Method

DOE proposes to amend the test method paragraph of the active mode test procedure at 10 CFR 431.324 to: (1) Specify lamp stabilization criteria for testing; (2) more accurately reference industry standards and the relevant sections of those standards; and (3) include requirements for ballast efficiency calculations. Specifically, DOE is proposing to add paragraphs to the test method paragraph describing requirements for lamp stabilization, test measurements, and calculations. As discussed in further detail, DOE is also proposing to revise the heading of paragraph (b)(2) of 10 CFR 431.324 from ''Test Measurement'' to ''Test Method'' and redesignate it as paragraph (b)(3) to align with the proposed revisions to this paragraph (b). In addition, DOE is proposing to add the ballast efficiency calculation contained in paragraph (b)(3) of existing 10 CFR 431.324 to the ''Test Method'' section to improve organization.

a. Stabilization Criteria

DOE proposes to clarify the requirements for lamp stabilization found at 10 CFR 431.324. Specifically, DOE proposes to directly reference sections 4.4.2 and 4.4.3 of ANSI C82.6–2015 (R2020) for the basic stabilization method and the alternative stabilization method, respectively. As discussed in section III.C, the current DOE test procedure contains explicit instructions for both the lamp stabilization methods rather than referencing the relevant sections of the industry standard. At the time of the previous rulemaking, NEMA provided the then-anticipated changes to the updated version of ANSI C82.6. Because the lamp stabilization methods are now contained in ANSI C82.6–2015 (R2020), DOE proposes to reference the relevant sections, sections 4.4.2 and 4.4.3. DOE, however, proposes to maintain the lamp stability criteria for the basic stabilization method currently found at 10 CFR 431.324, as the method in ANSI C82.6–2015 (R2020) is more ambiguous and may not be practical. ANSI C82.6–2015 (R2020) states that stabilization is determined by operating the lamp within 3 percent of its rated wattage in the specified ambient temperature until the electrical parameters ''cease to change.'' DOE determined that the existing lamp stability criteria in 10 CFR 431.324, which states that stabilization is reached when the lamp's electrical characteristics vary by no more than 3 percent in three consecutive 10 to 15 minute intervals, is more specific. DOE has determined that the verbiage ''cease to change'' in the updated ANSI stability criteria would be nearly impossible to meet, as electrical parameters are expected to change by a small percentage after each measurement. DOE has tentatively determined that these proposed updates would not change measured values, as the lamp stabilization procedures are consistent with the methods in the existing DOE test procedure, and DOE is simply replacing these methods with references to the appropriate sections of ANSI C82.6–2015 (R2020). DOE requests comment on the proposal to directly reference the basic stabilization method section and alternative stabilization method sections of ANSI C82.6–2015 (R2020). DOE also requests comment on its proposal to retain the lamp stability criteria for the basic stabilization method, as currently set forth in the DOE test procedure.

b. Test Measurements

DOE proposes additional updates to 10 CFR 431.324 to more closely align regulations with the updated ANSI C82.6 standard. DOE proposes to remove the general reference to section 6 of ANSI C82.6 and specifically reference sections 6.1 and 6.8 of ANSI C82.6–2015 (R2020) for measuring ballast input power, and sections 6.2 and 6.10 of ANSI C82.6–2015 (R2020) for measuring lamp output power. DOE is simply providing references to the subsections within section 6 of ANSI C82.6–2015 (R2020) that are specific to the value being measured instead of referencing the general section. DOE expects that these updates would further clarify the test procedure and not change measured values.

[21] U.S. Department of Energy–Office of Energy Efficiency and Renewable Energy. Energy Conservation Program for Consumer Equipment: Final Determination: High-Intensity Discharge Lamps. 2015. Washington, DC Available at: *https://www.regulations.gov/docket?D=EERE-2010-BT-STD-0043.*

c. Calculations

DOE proposes minor changes to the organization of 10 CFR 431.324, used to calculate ballast efficiency, which is the measured lamp output power divided by the measured ballast input power. Specifically, in the ballast efficiency calculation description, DOE proposes to reference the sections in the DOE test procedure that specify how to measure ballast input power and ballast output (lamp) power. DOE has tentatively determined that these updates would serve only as a clarification of the ballast efficiency calculation and would not affect measured values.

d. High-Frequency Electronic Ballasts

The current test procedure incorporates by reference ANSI C82.6–2005 for testing both electronic and magnetic metal halide ballasts. However, neither ANSI C82.6–2005 nor the revised 2020 version provide a method specifically for testing high-frequency electronic (''HFE'') ballasts. A HFE metal halide ballast is defined by DOE as an electronic ballast that operates a lamp at an output frequency of 1000 Hz or greater. 10 CFR 431.322. In the 2013 MHLF energy conservation standards NOPR, DOE considered adopting procedures for testing HFE ballasts based on the instrumentation used for testing high frequency electronic fluorescent lamp ballasts. 78 FR 51464, 51480–51481 (Aug. 20, 2013). However, in the 2014 MHLF energy conservation standards final rule, DOE declined to amend the test procedure to include a procedure for HFE ballasts due to the lack of industry specifications for reference lamps to be paired with the ballasts during testing and the lack of a complete industry test method specific to HFE ballasts. 79 FR 7758 (Feb. 10, 2014).

Subsequently, an ANSI standard for HFE metal halide ballasts titled ANSI C82.17–2017, ''High Frequency (HF) Electronic Ballasts for Metal Halide Lamps,'' (ANSI C82.17–2017) was published. ANSI C82.17–2017 provides specifications for and operating characteristics of HFE metal halide ballasts with sinusoidal lamp operating current frequencies above 40 kilohertz (''kHz''). ANSI C82.17–2017 also states in section 5.1 that ''all measurements necessary to determine compliance with the ballast performance requirements of this standard shall be made in accordance with ANSI C82.6.'' Based on DOE's initial review, the specifications and instructions in ANSI C82.6 cover the necessary methodology, while being general enough to be used as a guide for taking measurements of HFE ballasts.

In the May 2018 RFI, DOE requested comment on the impact of incorporating by reference ANSI C82.17–2017, and whether it would provide repeatable and reproducible results when paired with ANSI C82.6–2015 for the testing of HFE metal halide ballasts. 83 FR 24683.

In response, NEMA noted that ANSI standards represent the most effective, repeatable test procedures possible, but that there is administrative burden associated with implementing these standards. Specifically, NEMA cited several challenges associated with incorporating ANSI C82.17–2017 for testing HFE metal halide ballasts, including: (1) Few, if any, HFE metal halide reference ballasts exist and no design standard exists; (2) limited industry resources are available to develop a HFE reference ballast design standard due to increased focus on LED technology; (3) repeatability issues exist unless high frequency reference ballasts become commonly available; and (4) costs are associated with additional National Voluntary Laboratory Accreditation Program (''NVLAP'') certifications. (NEMA, No. 2 at p. 7)

DOE appreciates NEMA's feedback on the challenges associated with incorporating ANSI C82.17–2017 for testing HFE ballasts. DOE agrees that the lack of a HFE reference ballast design standard and the absence of HFE reference ballast specifications in ANSI C78.43–2017 and ANSI C78.44–2016 could cause repeatability issues when testing HFE metal halide ballasts. Therefore, DOE is not proposing to incorporate by reference ANSI C82.17–2017 or to include a test method for HFE metal halide ballasts in the proposed revisions to its test procedure. DOE will continue to monitor the development of HFE reference ballast design standards and HFE reference ballast specifications for metal halide lamps, and may consider revising the test procedure in the future. Costs associated with the proposed revisions to the test procedure, including NVLAP certification, are discussed in detail in section III.H.1 of this document.

DOE also requested comment in the May 2018 RFI on whether manufacturers and laboratories test HFE metal halide ballasts using the same instrumentation as they use for testing electronic fluorescent lamp ballasts. 83 FR 24683. NEMA responded that the instrumentation used is similar, but does not exactly align due to major differences in the level of power consumption between the technologies. NEMA noted that differences between HFE metal halide ballasts and high frequency electronic fluorescent lamp ballasts in the frequency bands, current, voltage, power ranges, and starting modes require separate, high-capacity equipment for HFE metal halide ballasts. (NEMA, No. 2 at p. 7) As discussed previously in this section, DOE is not proposing a test method for HFE metal halide ballasts at this time due to the lack of HFE reference ballast design standard and HFE reference ballast specifications for metal halide lamps.

E. Proposed Amendments to Standby Mode Test Method

EPCA directs DOE to establish test procedures to include standby mode energy consumption, taking into consideration the most current versions of Standards 62301 and 62087 of the International Electrotechnical Commission. (42 U.S.C. 6295(gg)(2)(A)) IEC Standard 62087 applies only to audio, video, and related equipment, and does not apply to lighting products. DOE proposes to incorporate by reference IEC 62301:2011, which although not specifically addressing lighting products, applies generally to household electrical appliances which include lighting products. The current test procedure requires measuring standby mode energy consumption following provisions of ANSI C82.6–2005, the same industry standard that is incorporated into DOE's current active mode test procedure. However, while ANSI C82.6–2005 is not specific to standby mode energy consumption measurements, IEC 62301:2011 does provide requirements for measuring standby mode energy consumption.

In the May 2018 RFI, DOE requested comment on the potential impact of incorporating by reference IEC 62301:2011, the most recent version of the standard, in an amended test procedure for measuring standby mode power. 83 FR 24683. NEMA stated that the IEC 62301:2011 standard is not applicable to HID lamp ballasts. (NEMA, No. 2 at p. 6) DOE refers NEMA to section 1 of IEC 62301:2011, which states that the standard is ''applicable to electrical products with a rated input voltage or voltage range that lies wholly or partly in the range 100 V of alternating current (''A.C.'') to 250 V A.C. for single phase products, and 130 V A.C. to 480 V A.C. for other products.'' Section 1 of IEC 62301:2011 also states that the term ''products'' refers to ''energy using products such as household appliances or other equipment within the scope of TC 59'' [22]

[22] Information regarding IEC TC 59—Performance of household and similar electrical appliances, can be found at *https://www.iec.ch/dyn/www/f?p=103:7:10591261086280::::FSP_ORG_ID,FSP_LANG_ID:1275,25*.

but notes that the measurement methodology could be applied to other products. Metal halide ballasts are electrical products that operate at voltages that fall within the scope of IEC 62301:2011. Further DOE has determined that instructions and criteria specified in IEC 62301:2011 for stabilization and subsequent measurement of standby mode power consumption are applicable to metal halide lamp ballasts.

NEMA also commented that metal halide lamp ballasts capable of operating in standby mode are uncommon, and thus, modifications to the standby mode test method are unnecessary. (NEMA, No. 2 at p. 6) DOE conducted a survey of the market and agrees that metal halide ballasts capable of operating in standby mode are uncommon. As discussed in section III.C.4, DOE is required by EPCA to incorporate a measure of standby and off mode energy consumption in accordance with IEC 62301 and IEC 62087, if technically feasible. (42 U.S.C. 6295(gg)(2)) Therefore, because DOE deems it to be technically feasible, DOE is proposing to incorporate by reference specific sections of IEC 62301:2011 for measuring the energy consumption of MHLFs capable of operating in standby mode. DOE notes that the proposed revisions to the existing standby test method will improve clarity by replacing the currently referenced industry standard (ANSI C82.6–2005) with one that addresses standby mode power consumption (IEC 62301:2011) and better align with the requirements of EPCA and the standby mode test methods for other lighting products.

In addition, as a result of DOE's proposed amendments to the standby mode test method discussed in the preceding paragraphs, DOE is proposing modifications to the organization and wording of paragraph (c) in 10 CFR 431.324 to improve readability. Specifically, DOE proposes to modify the general instructions of the standby mode test method found in existing paragraph (c) to clarify that standby mode energy consumption need only be measured for ballasts capable of operating in standby mode. DOE also proposes to state that the language in 10 CFR 431.324 would take precedence if there is a conflict between IEC 62301:2011 and the language in the revised DOE test procedure. DOE requests comment on the proposed modifications to the organization and the general instructions of the standby mode test method in 10 CFR 431.324(c). DOE discusses the proposed amendments to the standby mode test method in greater detail in the sections that follow.

1. Test Conditions and Setup

Both the active mode and standby mode test procedures measure input power of the ballast. As such, for consistency within the test procedure and to reduce the test burden, DOE proposes requiring similar general test conditions and setup for both tests. To align the test conditions and setup requirements for the active and standby modes, DOE proposes to modify the test conditions and setup paragraph in the standby mode test procedure with the following directions: (1) Test conditions and setup must be in accordance with the active mode test procedure and (2) each ballast must be operated with a lamp as specified in the active mode test procedure, except that the use of a reference lamp is not required. Because lamps are not turned on during the measurement of standby mode power consumption, DOE has tentatively determined that whether the lamp to which the ballast is connected is a reference lamp does not impact standby mode energy consumption measurements. In addition, DOE proposes to revise the heading ''Test Conditions'' of paragraph (c)(1) of existing 10 CFR 431.324 to ''Test Conditions and Setup'' to reflect these changes.

DOE requests comment on referencing the active mode test method section in the test conditions and setup requirements for the standby mode test method and for the connection of lamps (with the exception of reference lamp requirements).

2. Test Method and Measurement

DOE also proposes to replace the paragraphs of existing 10 CFR 431.324 pertaining to standby mode measurements. DOE proposes to add a new paragraph with the heading ''Test Method and Measurement,'' containing specific instructions related to the measurement of standby mode energy consumption. DOE proposes to: (1) Add instructions to turn on, at full light output, the lamp to which the ballast is connected to ensure the ballast is not defective and (2) require ballast stabilization and that subsequent measurement of standby mode energy consumption be conducted according to the measurements section of IEC 62301:2011 (*i.e.,* section 5). DOE has tentatively determined that the instructions and criteria specified for stabilization and measurement of standby mode power consumption in section 5 of IEC 62301:2011 are appropriate for MHLFs. DOE requests comment on referencing section 5 of IEC 62301:2011 for stabilization and standby mode energy consumption measurements. In addition, DOE requests comments on proposed instructions regarding turning on the lamp to ensure the ballast is not defective. Finally, DOE requests comment on the test burden and impact on the energy use measurement during a representative average use cycle or period of use associated with the proposed modifications to the measurement of standby mode power in the DOE test procedure.

F. Definitions

DOE proposes to define several terms in 10 CFR 431.322 pertaining to the proposed test specifications for reference lamps used in testing (see section III.D.1 for greater detail). DOE proposes to define the term ''reference lamp'' as a lamp that meets the operating conditions of a reference lamp as defined by ANSI C82.9–2016. DOE proposes to define ''quartz metal halide lamp'' as a lamp with an arc tube made of quartz materials, and ''ceramic metal halide lamp'' as a lamp with an arc tube made of ceramic materials.

DOE proposes to amend the existing definition for the term ''ballast efficiency'' in 10 CFR 431.322 by removing clause 3 in the definition which references ''nominal system'' and ANSI C78.43 since the test procedure in its entirety outlines the system requirements when testing the ballast efficiency of a metal halide lamp ballast. See section III.C.2 for more details. DOE also proposes to remove clauses 4 and 5 in the ''ballast efficiency'' definition which, respectively, specify for 60 Hz and greater than 60 Hz, input power and output power measurement specifications. DOE proposes to move these requirements to the test procedure found in 10 CFR 431.324 because they describe the test method.

G. Compliance Dates and Waivers

EPCA prescribes that all representations of energy efficiency and energy use, including those made on marketing materials and product labels, must be made in accordance with an amended test procedure, beginning 180 days after publication of such a test procedure final rule in the **Federal Register**. (42 U.S.C. 6293(c)(2)) If DOE were to publish an amended test procedure, EPCA provides an allowance for individual manufacturers to petition DOE for an extension of the 180-day period if the manufacturer may experience undue hardship in meeting the deadline. (42 U.S.C. 6293(c)(3)) To receive such an extension, petitions

must be filed with DOE no later than 60 days before the end of the 180-day period and must detail how the manufacturer will experience undue hardship. (*Id.*)

Upon the compliance date of an amended test procedure, should DOE issue such an amendment, any waivers that had been previously issued and are in effect that pertain to issues addressed by the amended test procedure are terminated. 10 CFR 430.27(h)(2). Recipients of any such waivers would be required to test the equipment subject to the waiver according to the amended test procedure as of the effective date of the amended test procedure. At present there are no outstanding waivers that address test procedure issues that would be addressed by the amendments proposed in this document.

H. Test Procedure Costs, Harmonization, and Other Topics

1. Test Procedure Costs, Burdens and Impact

EPCA requires that test procedures proposed by DOE not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) In this NOPR, DOE proposes to amend the existing test procedure for metal halide lamp ballasts by (1) updating references to industry standards; (2) clarifying the selection of reference lamps to be tested with metal halide lamp ballasts; (3) reorganizing the content of the test procedure for better readability and clarity; and (4) revising the test procedure for measuring standby mode energy consumption of metal halide lamp ballasts. DOE has tentatively determined that these proposed amendments to the MHLF test procedure would not be unduly burdensome to conduct because they are mainly clarifications to existing requirements.

Moreover, DOE's analysis of this proposal indicates that, if finalized, it would result in neither a reduction of nor an increase in future testing costs.

The proposed amendments would update references within the test procedure to the latest versions of existing industry standards and adding references to new industry standards. The current test procedure for taking active mode measurements to determine ballast efficiency references one industry standard, ANSI C82.6. The proposed amendments update references to ANSI C82.6 from the 2005 version to the 2020 version. In addition, the NOPR proposes to reference three new standards: ANSI C78.44–2016 to incorporate industry-approved lamp characteristics for double-ended metal halide lamps; ANSI C82.9–2016 to incorporate industry-approved definition for reference lamp; and IEC 62301:2011 to incorporate an industry standard that is specific to standby mode power consumption measurement. In general, these updates only clarify requirements, and do not add complexity to test conditions/setup or add test steps. This NOPR also proposes clarifications regarding the selection of reference lamps to address, in particular, new equipment on the market (*i.e.,* metal halide ballasts that can operate multiple lamp wattages or lamp types). DOE expects that these proposed amendments would provide greater specificity to the test setup instructions.

The proposed revisions to the standby mode test procedure would change the industry standard reference from ANSI C82.6 to IEC 62301:2011, Section 5. The latter industry reference provides more detailed guidance on how to determine the final power consumption value from power readings, but should not add additional steps to obtain power measurements. Additionally, the proposed amendments to the standby mode test procedure align the test setup and test conditions for taking active mode and standby mode measurements. DOE notes that IEC 62301 has already been incorporated in other DOE lighting test procedures. IEC 62301:2011 does not require additional measurements or new instrumentation, and therefore, DOE has tentatively determined its incorporation would not increase test burden.

DOE has tentatively determined that the amendments to DOE's test procedure for measuring ballast efficiency proposed in this NOPR would not require the purchase or use of new or additional equipment or require additional steps for testing measured values. Further, the proposed revisions are not expected to change measured values. Hence, DOE expects that manufacturers will be able to rely on data generated under the previous test procedure. While manufacturers must submit a report annually to certify a basic model's represented values, basic models do not need to be retested annually. The initial test results used to generate a certified rating for a basic model remain valid as long as the basic model has not been modified from the tested design in a way that makes it less efficient or more consumptive, which would require a change to the certified rating. If a manufacturer has modified a basic model in a way that makes it more efficient or less consumptive, new testing is only required if the manufacturer wishes to make claims of the new, more efficient rating.[23]

In the May 2018 RFI, DOE requested information that would help DOE create procedures that would limit manufacturer test burden through streamlining or simplifying testing requirements. DOE also requested feedback on any potential amendments to the existing test procedure that could be considered to address impacts on manufacturers, including small businesses. 83 FR 24683.

NEMA commented that there is no benefit to updating the current test procedures for MHLFs, which are well-implemented, well-understood, and adequate to the needs of the environment. NEMA added that updating the test procedures would result in increased burden due to test process provisions, requalification of NVLAP, and training of laboratory personnel. NEMA provided a breakdown of the costs associated with certifying labs to new versions of industry standards and urged DOE to consider these costs for each affected manufacturer laboratory in its manufacturer impact analysis. Specifically, NEMA estimated the NVLAP certification costs for each new standard to be $15,000; the administrative costs to train personnel on a new DOE test procedure to be $50,000; and the costs for additional personnel to support a new or revised test procedure to be $100,000. (NEMA, No. 2 at pp. 7–8)

DOE considered the additional cost burden outlined by NEMA specifically related to NVLAP accreditation costs; administrative costs; and costs for additional personnel. DOE notes that a laboratory gaining accreditation to test MHLFs according to the test procedure in 10 CFR 431.324 is doing so voluntarily or as required by an entity other than DOE. Accreditation by NVLAP is not required by DOE under 10 CFR part 431 or 10 CFR part 429 for the testing of MHLFs, and therefore does not factor into testing costs associated with DOE's test procedure.

As stated in this NOPR, DOE has tentatively determined that the proposed updates to the current test procedure are minimal and should not result in a change of measured values. With regards to administrative costs cited by NEMA to train personnel on a test procedure, due to the minimal changes, DOE has tentatively determined the proposed amendments will not result in additional workload

[23] See guidance issued by DOE at: *https://www1.eere.energy.gov/buildings/appliance_standards/pdfs/cert_faq_2012-04-17.pdf.*

for testing personnel. Therefore, DOE has tentatively determined the costs associated with training existing personnel to be minimal and the need to hire additional personnel to be unlikely.

NEMA also commented that there are significant costs associated with acquiring instrumentation for the testing of HFE metal halide ballasts, which is an added burden on manufacturers and especially small businesses. NEMA noted that a high frequency power analyzer may cost around $45,000 and the manufacture or procurement of HFE reference ballasts may be $5,000. (NEMA, No. 2 at pp. 7–8) As discussed in section III.D.2.d, DOE is not considering a test method for HFE metal halide ballasts, which eliminates the additional costs cited by NEMA for the testing of HFE metal halide ballasts.

NEMA noted in comments made in response to the December 2011 HID lamps test procedure NOPR (HID TP NOPR; 76 FR 77914 (Dec. 15, 2011) that the cost to test high wattage products is not trivial due to heat output, electricity costs, and personnel safety considerations.[24] NEMA commented that although the duration of metal halide ballast testing is shorter than the HID lamp lumen maintenance testing considered in the HID TP NOPR,[25] the energy consumption remains significant. NEMA concluded that a complete revision of the metal halide ballast test procedure would result in these non-trivial testing costs being added to the product costs in a declining market. (NEMA, No. 2 at p. 8)

As stated, DOE has tentatively determined that the changes proposed in this NOPR are minor updates to clarify and enhance the test procedure, and would not result in a change in measured values. Further, DOE is not proposing a test method for HFE metal halide ballasts in this NOPR, so the proposed amendments would not change the scope of the test procedure. For these reasons, the proposed updated test procedure would not increase test costs for manufacturers.

2. Harmonization With Industry Standards

DOE's established practice is to adopt relevant industry standards as DOE test procedures unless such methodology would be unduly burdensome to conduct or would not produce test results that reflect the energy efficiency, energy use, water use (as specified in EPCA), or estimated operating costs of that product during a representative average use cycle. Section 8(c) of appendix A to 10 CFR part 430 subpart C. In cases where the industry standard does not meet EPCA statutory criteria for test procedures DOE will make modifications through the rulemaking process to these standards as the DOE test procedure.

The test procedure for metal halide lamp ballasts at § 431.324 incorporates by reference several industry standards. DOE proposes to incorporate by reference ANSI C78.43–2017, ANSI C78.44–2016, ANSI C82.6–2015 (R2020), ANSI C82.9–2016, and IEC 62301:2011 in their entirety. The industry standards DOE proposes to incorporate by reference via amendments described in this NOPR are discussed in further detail in section IV.M.

DOE requests comment on the benefits and burdens of adopting any industry/voluntary consensus-based or other appropriate test procedure, without modification. DOE also seeks comment on whether there are any further changes to the Federal test method that would provide additional benefits to the public.

3. Other Test Procedure Topics

In the May 2018 RFI, in addition to the issues identified earlier in this document, DOE welcomed comment on any other aspect of the existing test procedure for metal halide lamp ballasts not already addressed by the specific areas identified in the document. In particular, DOE requested information that would assist DOE in assuring that the test procedure is reasonably designed to produce results that measure the energy use or energy efficiency of the products during a representative average use cycle or period of use. DOE also requested information that would improve the repeatability and reproducibility of the test procedure. 83 FR 24683. NEMA commented that incorporating ANSI C82.6–2015 would ensure the repeatability and reproducibility of test results, but noted that it was unaware of studies conducted regarding the energy use or energy efficiency of MHLFs over time. (NEMA, No. 2 at p. 7) DOE agrees that referencing ANSI C82.6–2015 (R2020), which is a reaffirmation of ANSI C82.6–2015, helps to ensure repeatability and reproducibility of the test procedure, and therefore proposes incorporating this industry standard by reference. Further comment on this topic is welcome.

DOE also requested comment on whether the existing test procedure limits a manufacturer's ability to provide additional MHLF features to customers. 83 FR 24683. NEMA reiterated the lack of growth and development in this market and commented that, as a result, customers are not seeking additional features for these products and therefore no updates are needed to the test procedure to address new features. (NEMA, No. 2 at p. 9) DOE appreciates NEMA's feedback that no updates are currently necessary to the existing test procedure to support the testing of new features. Further comment on this topic is welcome.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget (''OMB'') has determined that test procedure rulemakings do not constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866, ''Regulatory Planning and Review.'' 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (''OIRA'') in the OMB.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (''IFRA'') for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website: *https://energy.gov/gc/office-general-counsel.*

DOE reviewed this proposed rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. DOE tentatively concludes that the proposed rule, if adopted, would not have significant economic impact on a substantial number of small entities.

[24] See *https://www.regulations.gov/document?D=EERE-2010-BT-TP-0044-0006.*

[25] U.S. Department of Energy–Office of Energy Efficiency and Renewable Energy. Energy Conservation Program for Consumer Equipment: Notice of Proposed Rulemaking: Test Procedures for High-Intensity Discharge Lamps. 2011. Washington, DC Available at: *https://www.regulations.gov/document?D=EERE-2010-BT-TP-0044-0001.*

The factual basis of this certification is set forth in the following paragraphs.

The Small Business Administration (''SBA'') considers a business entity to be a small business, if, together, with its affiliates, it employs less than a threshold number of workers specified in 13 CFR part 121. These size standards and codes established by the North American Industry Classification System (''NAICS'') and are available at *https://www.sba.gov/document/support—table-size-standards.* Metal halide lamp ballast manufacturing is classified under NAICS 335311, ''Power, Distribution, and Specialty Transformer Manufacturing.'' The SBA sets a threshold of 750 employees or fewer for an entity to be considered as a small business for this category. MHLF manufacturing is classified under NAICS 335122, ''Commercial, Industrial, and Institutional Electric Lighting Fixture Manufacturing.'' The SBA sets a threshold of 500 employees or less for an entity to be considered as a small business for this category.

To estimate the number of companies that could be small businesses that manufacture these ballasts, DOE conducted a market survey using publicly available information. DOE's research involved reviewing information provided by trade associations (*e.g.,* the National Electrical Manufacturers' Association), information from individual company websites, market research tools (*i.e.,* Hoover's reports) and DOE's certification and compliance database. DOE screened out companies that do not meet the definition of a ''small business'' or are completely foreign owned and operated. DOE identified five small businesses that produce metal halide lamp ballasts sold in the United States and can be considered small business manufacturers. For MHLFs, DOE identified approximately 54 small businesses that produce MHLFs sold in the United States and can be considered small business manufacturers.

Because DOE has tentatively concluded that the proposed amendments would not increase the industry cost of the existing test procedure (see section III.H.1), DOE tentatively concludes that the impacts of the test procedure amendments proposed in this NOPR would not have a ''significant economic impact on a substantial number of small entities,'' and that the preparation of an IRFA is not warranted. DOE will transmit the certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b). DOE requests comment on the impacts of the test procedure amendments proposed in this NOPR on small businesses.

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of MHLFs must certify to DOE that their equipment complies with any applicable energy conservation standards. To certify compliance, manufacturers must first obtain test data for their equipment according to the DOE test procedures, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including MHLFs. (See generally 10 CFR part 429.) The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (''PRA''). This requirement has been approved by OMB under OMB Control Number 1910–1400. Public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed regulation in accordance with the National Environmental Policy Act of 1969 (''NEPA'') and DOE's NEPA implementing regulations (10 CFR part 1021). DOE's regulations include a categorical exclusion for rulemakings interpreting or amending an existing rule or regulation that does not change the environmental effect of the rule or regulation being amended. 10 CFR part 1021, subpart D, Appendix A5. DOE anticipates that this rulemaking qualifies for categorical exclusion A5 because it is an interpretive rulemaking that does not change the environmental effect of the rule and otherwise meets the requirements for application of a categorical exclusion. See 10 CFR 1021.410. DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (Aug. 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in developing such regulations. 65 FR 13735. DOE has examined this proposed rule and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately

defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the proposed rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA'') requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *https://energy.gov/gc/office-general-counsel.* DOE examined this proposed rule according to UMRA and its statement of policy and determined that because the rule contains neither an intergovernmental mandate nor a mandate that may result in the expenditure of $100 million or more in any year, these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999, (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This proposed rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (Mar. 18, 1988), that this proposed regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001, (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at *https://www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf.* DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This proposed regulatory action to amend the test procedure for measuring the energy consumption of MHLFs is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; FEAA) Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (''FTC'') concerning the impact of the commercial or industry standards on competition.

The proposed modifications to the test procedure for metal halide lamp ballasts in this NOPR incorporates testing methods contained in the following commercial standards:

(1) ANSI C78.43, ''American National Standard for Electric Lamps—Single-Ended Metal Halide Lamps,'' 2017;
(2) ANSI C78.44, ''American National Standard for Electric Lamps—Double-Ended Metal Halide Lamps,'' 2016;
(3) ANSI C82.6, ''American National Standard for Lamp Ballasts—Ballasts for High-Intensity Discharge Lamps—Methods of Measurement,'' 2020;
(4) ANSI C82.9, ''American National Standard for Electric Lamps— High Intensity Discharge and Low-Pressure Sodium Lamps— Definitions,'' 2016; and
(5) IEC Standard 62301, ''Household electrical appliances—Measurement of standby power (Edition 2.0, January 2011),'' 2011.

DOE has evaluated these standards and is unable to conclude whether they fully comply with the requirements of

section 32(b) of the FEAA (15 U.S.C. 775) (*i.e.,* whether they were developed in a manner that fully provides for public participation, comment, and review). DOE will consult with both the Attorney General and the Chairman of the FTC concerning the impact of these test procedures on competition, prior to prescribing a final rule.

M. Description of Materials Incorporated by Reference

In this NOPR, DOE proposes to incorporate by reference the test standard published by ANSI, titled ''American National Standard for Electric Lamps—Single-Ended Metal Halide Lamps,'' ANSI C78.43–2017. ANSI C78.43–2017 is an industry accepted test standard that specifies the physical and electrical requirements for single-ended metal halide lamps operated on 60 Hz ballasts. The test procedure proposed in this NOPR references ANSI C78.43–2017 for characteristics of reference lamps that must be used when testing metal halide lamp ballasts. ANSI C78.43–2017 is readily available on ANSI's website at *https://webstore.ansi.org/.*

DOE also proposes to incorporate by reference the test standard published by ANSI, titled ''American National Standard for Electric Lamps—Double-Ended Metal Halide Lamps,'' ANSI C78.44–2016. ANSI C78.44–2016 is an industry accepted test standard that sets forth the physical and electrical requirements for double-ended metal halide lamps operated on 60 Hz ballasts. The test procedure proposed in this NOPR references ANSI C78.44–2016 for characteristics of reference lamps that must be used when testing metal halide lamp ballasts. ANSI C78.44–2016 is readily available on ANSI's website at *https://webstore.ansi.org/.*

DOE also proposes to incorporate by reference the test standard published by ANSI, titled ''American National Standard for Lamp Ballasts—Ballasts for High-Intensity Discharge Lamps—Methods of Measurement,'' ANSI C82.6–2015 (R2020). ANSI C82.6–2015 (R2020) is an industry accepted test standard that describes the procedures and the precautions to be taken in measuring performance of low-frequency ballasts (electromagnetic and electronic ballasts that operate at less than 400 Hz) for HID lamps. The test procedure proposed in this NOPR references sections of ANSI C82.6–2015 (R2020) for general testing conditions and methods for the measurement of ballast operating characteristics. ANSI C82.6–2015 (R2020) is readily available on ANSI's website at *https://webstore.ansi.org/.*

DOE also proposes to incorporate by reference the test standard published by ANSI, titled ''American National Standard for Electric Lamps— High Intensity Discharge and Low-Pressure Sodium Lamps— Definitions,'' ANSI C82.9–2016. ANSI C82.9–2016 is an industry accepted standard that provides definitions related to specific terms related to HID lamps and ballasts. The test procedure proposed in this NOPR references ANSI C82.9–2016 for defining reference lamps which are used when testing metal halide lamp ballasts. ANSI C82.9–2016 is readily available on ANSI's website at *https://webstore.ansi.org/.*

In this NOPR, DOE proposes to incorporate by reference the test standard published by IEC, titled ''Household electrical appliances—Measurement of standby power (Edition 2.0, January 2011),'' IEC 62301:2011. IEC 62301:2011 is an industry accepted test standard that describes measurements of electrical power consumption in standby mode, off mode, and network mode. The test procedure proposed in this NOPR references sections of IEC Standard 62301:2011 for testing standby mode power consumption of metal halide lamp ballasts. IEC 62301:2011 is readily available on IEC's website at *https://webstore.iec.ch/home.*

V. Public Participation

A. Participation in the Webinar

The time and date of the webinar are listed in the **DATES** section at the beginning of this document. If no participants register for the webinar, it will be cancelled. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's website: *https://www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=14.* Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via https://www.regulations.gov. The *https://www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *https://www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (''CBI'')). Comments submitted through *https://www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *https://www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *https://www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email. Comments and documents submitted via email also will be posted to *https://www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as

long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

C. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

(1) DOE requests comment on its proposal to incorporate by reference ANSI C82.6–2015 (R2020), ANSI C78.43–2017, ANSI C78.44–2016, ANSI C82.9–2016, and IEC 62301:2011.

(2) DOE requests comment on the proposal to specify that dimming metal halide lamp ballasts be tested at maximum input power.

(3) DOE requests comment on the proposed requirements for selecting reference lamps for ballasts capable of operating lamps of different wattages or lamp types, and specifically the proposals to test ballasts with lamps at the highest lamp wattage and to test with quartz metal halide lamps.

(4) DOE requests comment on its proposal to directly reference the basic stabilization method section and alternative stabilization method section of ANSI C82.6–2015 (R2020). DOE also requests comment on its proposal to retain the lamp stability criteria for the basic stabilization method.

(5) DOE requests comment on referencing the active mode test method section for the test conditions and setup of the standby mode test method and for the connection of lamps (with the exception of reference lamp requirements).

(6) DOE requests comment on proposed instructions requiring the lamp be turned on to ensure the ballast is not defective prior to measuring standby mode energy consumption.

(7) DOE requests comment on referencing section 5 of IEC 62301:2011 for stabilization and standby mode energy consumption measurements.

(8) DOE requests comment on DOE's tentative determination that the proposed updates would not change measured values used for certifying compliance with existing energy conservation standards.

(9) DOE seeks comment on whether the proposed test procedure, if adopted, is reasonably designed to produce results that measure the energy use or efficiency of MHLFs during a representative average use cycle or period of use.

(10) DOE requests comments, data, and information regarding the cost impact and test burden of the proposed amendments in this NOPR to manufacturers.

(11) DOE requests comment on the impacts of the proposed test procedure amendments on small businesses.

(12) DOE requests comments on any other aspect of the existing test procedure for MHLFs not already addressed by the specific areas identified in this document.

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule.

List of Subjects in 10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation test procedures, Incorporation by reference, Reporting and recordkeeping requirements, and Small business.

Signing Authority

This document of the Department of Energy was signed on June 23, 2021, by Kelly Speakes-Backman, Principal Deputy Assistant Secretary and Acting Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on June 23, 2021.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

For the reasons stated in the preamble, DOE is proposing to amend part 431 of chapter II of title 10, Code of Federal Regulations as set forth below:

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

■ 2. Section 431.322 is amended by:

■ a. Removing the definitions for ''AC control signal'', ''DC control signal'', and ''Wireless control signal'';

■ b. Revising the definition of ''Ballast efficiency''; and

■ c. Adding in alphabetical order, definitions for ''Ceramic metal halide lamp'', ''Quartz metal halide lamp'', and ''Reference lamp''.

The revision and addition read as follows:

§ 431.322 Definitions concerning metal halide lamp ballasts and fixtures.

* * * * *

Ballast efficiency means, in the case of a high intensity discharge fixture, the efficiency of a lamp and ballast combination, expressed as a percentage, and calculated in accordance with the following formula:

$$\text{Efficiency} = P_{out}/P_{in}$$

Where:

(1) P_{out} equals the measured operating lamp wattage; and

(2) P_{in} equals the measured operating input wattage.

* * * * *

Ceramic metal halide lamp means a metal halide lamp with an arc tube made of ceramic materials.

* * * * *

Quartz metal halide lamp means a metal halide lamp with an arc tube made of quartz materials.

Reference lamp is a metal halide lamp that meets the operating conditions of a reference lamp as defined by ANSI C82.9–2016 (incorporated by reference; see § 431.323).

* * * * *

■ 3. Section 431.323 is amended by:
■ a. Revising paragraphs (a) and (b)(1);
■ b. Redesignating paragraph (b)(2) as paragraph (b)(3);
■ c. Adding new paragraph (b)(2);
■ d. Revising newly redesignated paragraph (b)(3);
■ e. Adding paragraph (b)(4);
■ f. Redesignating paragraph (c) as paragraph (d); and
■ g. Adding new paragraph (c).

The revisions and additions read as follows:

§ 431.323 Materials incorporated by reference.

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the DOE must publish a document in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, Sixth Floor, 950 L'Enfant Plaza SW, Washington, DC 20024, (202) 586–2945, or go to *https://www.energy.gov/eere/buildings/appliance-and-equipment-standards-program.* It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: *fedreg.legal@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

(b) * * *

(1) ANSI C78.43 (''ANSI C78.43–2017''), American National Standard for Electric Lamps—Single-Ended Metal Halide Lamps, approved December 21, 2017, IBR approved for § 431.324.

(2) ANSI C78.44 (''ANSI C78.44–2016''), American National Standard for Electric Lamps—Double-Ended Metal Halide Lamps, approved July 1, 2016, IBR approved for § 431.324.

(3) ANSI C82.6 (''ANSI C82.6–2015 (R2020)''), American National Standard for Lamp Ballasts—Ballasts for High-Intensity Discharge Lamps—Methods of Measurement, approved March 30, 2020, IBR approved for §§ 431.322 and 431.324.

(4) ANSI C82.9 (''ANSI C82.9–2016''), American National Standard for Electric Lamps—High Intensity Discharge and Low-Pressure Sodium Lamps—Definitions, approved July 12, 2016, IBR approved for §§ 431.322 and 431.324.

(c) *IEC.* International Electrotechnical Commission, available from the American National Standards Institute, 25 W. 43rd Street, 4th Floor, New York, NY 10036, (212) 642–4900, or go to *https://webstore.ansi.org.*

(1) IEC 62301 (''IEC 62301''), Household electrical appliances—Measurement of standby power, (Edition 2.0, 2011–01), IBR approved for § 431.324;

(2) [Reserved]

* * * * *

■ 4. Section 431.324 is revised to read as follows:

§ 431.324 Uniform test method for the measurement of energy efficiency and standby mode energy consumption of metal halide lamp ballasts.

(a) *Scope.* This section provides test procedures for measuring, pursuant to EPCA, the energy efficiency of metal halide lamp ballasts. After August 13, 2021 and prior to January 10, 2022 any representations with respect to energy use or efficiency of metal halide lamp fixtures must be in accordance with the results of testing pursuant to this section or the test procedures as they appeared in § 431.324 revised as of January 1, 2019. On or after January 10, 2022, any representations, including certifications of compliance for metal halide lamp fixtures subject to any energy conservation standard, made with respect to the energy use or efficiency of metal halide lamp fixtures must be made in accordance with the results of testing pursuant to this section.

(b) *Active Mode Procedure.* (1) *General Instructions.* Specifications in referenced standards that are recommended, that ''shall'' or ''should'' be met, or that are not clearly mandatory, are mandatory. In cases where there is a conflict between any industry standard(s) and this section, the language of the test procedure in this section takes precedence over the industry standard(s).

(2) *Test Conditions and Setup.* (i) The power supply, ballast conditions, lamp position, and instrumentation must all conform to the requirements specified in section 4.0 of ANSI C82.6–2015 (R2020) (incorporated by reference; see § 431.323).

(ii) Airflow in the room for the testing period must be ≤0.5 meters/second.

(iii) Test circuits must be in accordance with the circuit connections specified in section 6.3 of ANSI C82.6–2015 (R2020).

(iv) For ballasts designed to operate lamps rated less than 150 W that have 120 V as an available input voltage, testing must be performed at 120 V. For ballasts designed to operate lamps rated less than 150 W that do not have 120 V as an available voltage, testing must be performed at the highest available input voltage. For ballasts designed to operate lamps rated greater than or equal to 150 W that have 277 V as an available input voltage, testing must be conducted at 277 V. For ballasts designed to operate lamps rated greater than or equal to 150 W that do not have 277 V as an available input voltage, testing must be conducted at the highest available input voltage.

(v) Operate dimming ballasts at maximum input power.

(vi) Select the metal halide lamp for testing as follows:

(A) The metal halide lamp used for testing must meet the specifications of a reference lamp as defined by ANSI C82.9–2016 (incorporated by reference; see § 431.323) and the rated values of the corresponding lamp data sheet as specified in ANSI C78.43–2017 (incorporated by reference; see § 431.323) for single-ended lamps and ANSI C78.44–2016 (incorporated by reference; see § 431.323) for double-ended lamps.

(B) Ballasts designated with ANSI codes corresponding to more than one lamp must be tested with the lamp having the highest nominal lamp wattage as specified in ANSI C78.43–2017 or ANSI C78.44–2016, as applicable.

(C) Ballasts designated with ANSI codes corresponding to both ceramic metal halide lamps (code beginning with ''C'') and quartz metal halide lamps (code beginning with ''M'') of the same nominal lamp wattage must be tested with the quartz metal halide lamp.

(3) *Test Method.* (i) *Stabilization Criteria.* (A) *General Instruction.* Lamp must be seasoned as prescribed in section 4.4.1 of ANSI C82.6–2015 (R2020) (incorporated by reference; see § 431.323).

(B) *Basic Stabilization Method.* Lamps using the basic stabilization method must be stabilized in accordance with section 4.4.2 of ANSI C82.6–2015 (R2020). Stabilization is reached when the lamp's electrical characteristics vary by no more than 3-percent in three consecutive 10- to 15-minute intervals

measured after the minimum burning time of 30 minutes.

(C) *Alternative Stabilization Method.* In cases where switching from the reference ballast to test ballast without extinguishing the lamp is impossible, such as for low-frequency electronic ballasts, the alternative stabilization method must be used. Lamps using the alternative stabilization method must be stabilized in accordance with section 4.4.3 of ANSI C82.6–2015 (R2020).

(ii) *Test Measurements.* (A) The ballast input power during operating conditions must be measured in accordance with the methods specified in sections 6.1 and 6.8 of ANSI C82.6–2015 (R2020).

(B) The ballast output (lamp) power during operating conditions must be measured in accordance with the methods specified in sections 6.2 and 6.10 of ANSI C82.6–2015 (R2020).

(C) For ballasts with a frequency of 60 Hz, the ballast input and output power shall be measured after lamps have been stabilized according to section 4.4 of ANSI C82.6–2015 (R2020) using a wattmeter with accuracy specified in section 4.5 of ANSI C82.6–2015 (R2020); and

(D) For ballasts with a frequency greater than 60 Hz, the ballast input and output power shall have a basic accuracy of ±0.5 percent at the higher of either 3 times the output operating frequency of the ballast or 2.4 kHz.

(iii) *Calculations.* (A) The measured ballast output (lamp) power, as measured in paragraph (b)(3)(ii)(B) of this section, must be divided by the measured ballast input power, as measured in paragraph (b)(3)(ii)(A) of this section, to determine the percent efficiency of the ballast under test to three significant figures.

(B) [Reserved]

(c) *Standby Mode Procedure.* (1) *General Instructions.* Measure standby mode energy consumption only for a ballast that is capable of operating in standby mode. Specifications in referenced standards that are recommended, that ''shall'' or ''should'' be met, or that are not clearly mandatory, are mandatory. When there is a conflict, the language of the test procedure in this section takes precedence over IEC 62301 (incorporated by reference; see § 431.323).

(2) *Test Conditions and Setup.*

(i) Establish and maintain test conditions and setup in accordance with paragraph (b)(1) of this section.

(ii) Connect each ballast to a lamp as specified in paragraph (b)(2)(vii) of this section. Note: ballast operation with a reference lamp is not required.

(3) *Test Method and Measurement.*

(i) Turn on all of the lamps at full light output. If any lamp is not functional, replace the lamp and repeat the test procedure. If the ballast will not operate any lamps, replace the unit under test.

(ii) Send a signal to the ballast instructing it to have zero light output using the appropriate ballast communication protocol or system for the ballast being tested.

(iii) Stabilize the ballast prior to measurement using one of the methods as specified in section 5 of IEC 62301 (incorporated by reference; see § 431.323).

(iv) Measure the standby mode energy consumption in watts using one of the methods as specified in section 5 of IEC 62301 (incorporated by reference; see § 431.323).

[FR Doc. 2021–13772 Filed 7–13–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0563; Project Identifier MCAI–2021–00282–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus SAS Model A350–941 and –1041 airplanes. This proposed AD was prompted by a report that during flight tests, the opening of the ram air outlet flaps was found to cause a disturbance of the air flow around the ram air turbine (RAT) when the landing gear (L/G) is extended. This proposed AD would require revising the existing airplane flight manual (AFM) and applicable corresponding operational procedures to provide procedures for all engines failure and L/G gravity extension related to certain software, and installing Airbus temporary quick change (ATQC) V3 for the flight warning system (FWS) software (SW) standard (STD) 6/2.0, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by August 30, 2021.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For material that will be incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0563.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0563; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Nick Wilson, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3230; email *nicholas.wilson@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0563; Project Identifier

MCAI–2021–00282–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this proposed AD.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Nick Wilson, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3230; email *nicholas.wilson@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0061, dated March 5, 2021 (EASA AD 2021–0061) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Airbus SAS Model A350–941 and –1041 airplanes.

This proposed AD was prompted by a report that during flight tests, the opening of the ram air outlet flaps was found to cause a disturbance of the air flow around the RAT when the L/G is extended. The FAA is proposing this AD to address a non-negligible effect on the overall performance of the RAT in case of total engine flame out (TEFO) or electrical emergency configuration combined with the auxiliary power unit (APU) running, which could lead to partial or total loss of RAT electrical power generation when the RAT is deployed in an emergency condition with the L/G extended, and possibly result in reduced control of the airplane. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0061 describes procedures for revising the existing AFM to provide procedures for all engines failure and L/G gravity extension related to certain software, and installing ATQC V3 for the FWS SW STD 6/2.0. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD because the FAA evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2021–0061 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

EASA AD 2021–0061 requires operators to ''inform all flight crews'' of revisions to the AFM, and thereafter to ''operate the aeroplane accordingly.'' However, this AD would not specifically require those actions as those actions are already required by FAA regulations. FAA regulations require operators furnish to pilots any changes to the AFM (for example, 14 CFR 121.137), and to ensure the pilots are familiar with the AFM (for example, 14 CFR 91.505). As with any other flightcrew training requirement, training on the updated AFM content is tracked by the operators and recorded in each pilot's training record, which is available for the FAA to review. FAA regulations also require pilots to follow the procedures in the existing AFM including all updates. 14 CFR 91.9 requires that any person operating a civil aircraft must comply with the operating limitations specified in the AFM. Therefore, including a requirement in this AD to operate the airplane according to the revised AFM would be redundant and unnecessary. Further, compliance with such a requirement in an AD would be impracticable to demonstrate or track on an ongoing basis; therefore, a requirement to operate the airplane in such a manner would be unenforceable.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use certain civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, EASA AD 2021–0061 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2021–0061 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2021–0061 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2021–0061. Service information specified in EASA AD 2021–0061 that is required for compliance with it will be available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0563 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD affects 17 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
3 work-hours × $85 per hour = $255	$0	$255	$4,335

According to the manufacturer, some or all of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected operators. The FAA does not control warranty coverage for affected operators. As a result, the FAA has included all known costs in the cost estimate.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Would not affect intrastate aviation in Alaska, and

(3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

Airbus SAS: Docket No. FAA–2021–0563; Project Identifier MCAI–2021–00282–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by August 30, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A350–941 and –1041 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2021–0061, dated March 5, 2021 (EASA AD 2021–0061).

(d) Subject

Air Transport Association (ATA) of America Code 31, Instruments.

(e) Reason

This AD was prompted by a report that during flight tests, the opening of the ram air outlet flaps was found to cause a disturbance of the air flow around the ram air turbine (RAT) when the landing gear is extended. The FAA is issuing this AD to address a non-negligible effect on the overall performance of the RAT in case of total engine flame out (TEFO) or electrical emergency configuration combined with the auxiliary power unit (APU) running, which could lead to partial or total loss of RAT electrical power generation when the RAT is deployed in an emergency condition with the landing gear extended, and possibly result in reduced control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2021–0061.

(h) Exceptions to EASA AD 2021–0061

(1) Where EASA AD 2021–0061 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (1) of EASA AD 2021–0061 specifies to ''inform all flight crews, and, thereafter, operate the aeroplane accordingly,'' this AD does not require those actions as those actions are already required by existing FAA operating regulations.

(3) Paragraph (1) of EASA AD 2021–0061 specifies amending ''the applicable AFM [airplane flight manual],'' however this AD requires amending ''the applicable existing AFM and applicable corresponding operational procedures.''

(4) The ''Remarks'' section of EASA AD 2021–0061 does not apply to this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in

an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

(1) For information about EASA AD 2021–0061 contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0563.

(2) For more information about this AD, contact Nick Wilson, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3230; email *nicholas.wilson@faa.gov.*

Issued on July 8, 2021.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–14923 Filed 7–13–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0357; Airspace Docket No. 21–ANE–3]

RIN 2120–AA66

Proposed Amendment of Class D and Class E Airspace; Portsmouth, NH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D airspace and Class E airspace for Portsmouth International Airport at Pease, Portsmouth, NH, due to the decommissioning of the PEASE Very High Frequency Omnidirectional Range Collocated with Distance Measuring Equipment (VOR/DME) and cancellation of the associated approach procedures (SIAPs). This action would also update the airport's name and geographic coordinates. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

DATES: Comments must be received on or before August 30, 2021.

ADDRESSES: Send comments on this proposal to: the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; Telephone: (800) 647–5527, or (202) 366–9826. You must identify the Docket No. FAA–2021–0357; Airspace Docket No. 21–ANE–3 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order 7400.11E Airspace Designations and Reporting Points, and subsequent amendments, can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; Telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone: (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it would amend airspace for Portsmouth International Airport at Pease, Portsmouth, NH, to support IFR operations in the area.

Comments Invited

Interested persons are invited to comment on this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (Docket No. FAA–2021–0357 and Airspace Docket No. 21–ANE–3) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for the address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2021–0357; Airspace Docket No. 21–ANE–3.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this document may be changed in light of the comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays, at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA proposes an amendment to Title 14 CFR part 71 to amend Class D airspace, increasing the radius to 4.7 miles from 4.5 miles, removing Class E airspace area designated as an extension to Class D and Class E surface area, as it is no longer necessary, and amend Class E airspace extending upward from 700 feet above the surface at Portsmouth International Airport at Pease, Portsmouth, NH, due to the decommissioning of the PEASE VOR/DME and cancellation of the associated approach procedures (SIAPs). This action would update the airport name to Portsmouth International Airport at Pease, formerly Pease International Tradeport. In addition, the FAA would update the geographic coordinates of the airport and Littlebrook Air Park to coincide with the FAA's database.

Class D and E airspace designations are published in Paragraphs 5000, 6004, and 6005, respectively, of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'', prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ANE NH D Portsmouth, NH [Amended]

Portsmouth International Airport at Pease, NH
(Lat. 43°04′41″ N, long. 70°49′24″ W)
Eliot, Littlebrook Air Park, ME
(Lat. 43°08′35″ N, long. 70°46′24″ W)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 4.7-mile radius of the Portsmouth International Airport at Pease, excluding that airspace within a 1.5-mile radius of the Littlebrook Air Park.

Paragraph 6004 Class E Airspace Designated as an Extension to Class E Surface Area.

* * * * *

ANE NH E4 Portsmouth, NH [Removed]

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ANE NH E5 Portsmouth, NH [Amended]

Portsmouth International Airport at Pease, NH
(Lat. 43°04′41″ N, long. 70°49′24″ W)

That airspace extending upward from 700 feet above the surface within an 8.2-mile radius of Portsmouth International Airport at Pease.

Issued in College Park, Georgia, on July 8, 2021.

Andreese C. Davis,

Manager, Airspace & Procedures Team South, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2021–14932 Filed 7–13–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2020–0059; FF09E22000 FXES11130900000 212]

RIN 1018–BE56

Endangered and Threatened Wildlife and Plants; Reclassification of the Palo de Rosa From Endangered to Threatened With Section 4(d) Rule

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to reclassify palo de rosa (*Ottoschulzia rhodoxylon*) from endangered to threatened (downlist) under the Endangered Species Act of 1973, as amended (Act). The proposed downlisting is based on our evaluation of the best available scientific and commercial information, which indicates that the species' status has improved such that it is not currently in danger of extinction throughout all or a significant portion of its range, but that it is still likely to become so in the foreseeable future. We also propose a rule under section 4(d) of the Act that provides for the conservation of palo de rosa.

DATES: We will accept comments received or postmarked on or before September 13, 2021. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date. We must receive requests for a public hearing, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by August 30, 2021.

ADDRESSES: You may submit comments on this proposed rule by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R4–ES–2020–0059, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rule box to locate this document. You may submit a comment by clicking on ''Comment''

(2) *By hard copy:* Submit by U.S. mail: Public Comments Processing, Attn: FWS–R4–ES–2020–0059, U.S. Fish and Wildlife Service, MS: PRB/3W (JAO), 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Information Requested, below, for more information).

Document availability: This proposed rule, list of literature cited, and supporting documents are available at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2020–0059.

FOR FURTHER INFORMATION CONTACT: Edwin Muñiz, Field Supervisor, U.S. Fish and Wildlife Service, Caribbean Ecological Services Field Office, P.O. Box 491, Boquerón, PR 00622; telephone (787) 851–7297. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Act, a species may warrant reclassification from endangered to threatened if it no longer meets the definition of endangered (in danger of extinction). The palo de rosa is listed as endangered, and we are proposing to reclassify (downlist) palo de rosa as threatened, because we have determined it is not currently in danger of extinction. Downlisting a species as a threatened species can only be accomplished by issuing a rulemaking.

What this document does. This rule proposes to reclassify palo de rosa as a threatened species on the Federal List of Endangered and Threatened Plants and to establish provisions under section 4(d) of the Act that are necessary and advisable to provide for the conservation of this species.

The basis for our action. Under the Act, we may determine that a species is an endangered species or a threatened species based on any of the five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. In our August 2017 5-year status review, we recommended downlisting this species from endangered to threatened based on our evaluation of these factors. We may downlist a species if the best available commercial and scientific data indicate the species no longer meets the applicable definition in the Act. We have determined that palo de rosa is no longer in danger of extinction and, therefore, does not meet the definition of an endangered species. However, the species meets the definition of a threatened species under the Act because it is affected by the following current and ongoing threats: Habitat loss, degradation, and fragmentation from urban development; agricultural practices and rights-of-way maintenance, coupled with habitat intrusion by exotics; other natural or manmade factors, such as hurricanes; and this tree's slow growth, limited dispersal, and low recruitment.

The information used for our 2017 5-year review, and the best currently available information, indicate that there are at least 1,144 known individuals (including adults and saplings) of palo de rosa. These individuals are distributed in at least 66 subpopulations (which include the 16 known localities identified at the time of the recovery plan development) throughout Puerto Rico. About 25 (38 percent) of those subpopulations show evidence of reproduction or natural recruitment (USFWS 2017, p. 6, table 1). The increase in the number of known individuals and new localities reflects increased survey efforts but does not necessarily indicate that previously known populations are naturally expanding their range. Approximately 70 percent of individuals occur in areas managed under some conservation status or in areas subject to little habitat modification due to the steep topography in the northern karst region of Puerto Rico. The remaining individuals occur within areas severely encroached and vulnerable to urban or infrastructure development.

The slow growth of this tree and its reproductive biology suggest that palo de rosa is a late successional species, whose saplings may remain under closed canopy until a natural disturbance induces favorable conditions for their development. Although natural disturbances (*e.g.,* tropical storms or hurricanes) can promote the recruitment of saplings into adulthood, the palo de rosa population should be composed of different size classes in order to be able to withstand such stochastic events.

Recovery actions such as propagation and planting have shown to be feasible, and the species is currently being propagated by the Puerto Rico Department of Natural and Environmental Resources (PRDNER), and planted in the Susúa and Guajataca Commonwealth Forests, as well as on lands within Fort Buchanan, owned by the U.S. Army. We have established a memorandum of understanding (MOU) with Fort Buchanan and PRDNER to address the conservation of the species within Fort Buchanan and to promote the propagation of palo de rosa for recovery purposes (U.S. Army, Fort Buchanan 2015, entire).

We are proposing to promulgate a section 4(d) rule. We propose to adopt the Act's section 9(a)(2) prohibitions as a means to provide protective mechanisms to palo de rosa. We also propose specific tailored exceptions to these prohibitions to allow certain activities covered by a permit or by an approved cooperative agreement to carry out conservation programs, which would facilitate the conservation and recovery of the species.

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and effective as possible. Therefore, we request comments or information from other concerned governmental agencies, Native American Tribes, the scientific community, industry, or other interested parties concerning this proposed rule.

We particularly seek comments concerning:

(1) Reasons we should or should not downlist palo de rosa as a threatened species.

(2) New information on the historical and current status, range, distribution, and population size of palo de rosa.

(3) New information on the known and potential threats to palo de rosa, including habitat loss, degradation, and fragmentation; habitat intrusion by exotics; hurricanes; and this tree's slow growth, limited dispersal, and low recruitment.

(4) New information regarding the life history, ecology, and habitat use of palo de rosa.

(5) Current or planned activities within the geographic range of palo de rosa that may have adverse or beneficial impacts on the species.

(6) Information on regulations that are necessary and advisable to provide for the conservation of palo de rosa and that the Service can consider in developing a 4(d) rule for the species.

(7) Information concerning the extent to which we should include any of the section 9 prohibitions in the 4(d) rule or whether any other activities should be excepted from the prohibitions in the 4(d) rule (to the extent permitted by Commonwealth law).

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*) directs that determinations as to whether any species is an endangered or threatened species must be made ''solely on the basis of the best scientific and commercial data available.''

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov.* Comments and materials we receive, as well as supporting documentation used in preparing this proposed rule, will be available for public inspection at Docket No. FWS–R4–ES–2020–0059 on *http://www.regulations.gov.*

Because we will consider all comments and information we receive during the comment period, our final determination may differ from this proposal. Based on the new information we receive (and any comments on that new information), we may conclude that the species should remain listed as endangered instead of being reclassified as threatened, or we may conclude that the species no longer warrants listing as either an endangered species or a threatened species. In addition, we may change the parameters of the prohibitions or the exceptions to those prohibitions if we conclude it is appropriate in light of comments and new information received.

Public Hearing

Section 4(b)(5) of the Act provides for a public hearing on this proposal, if requested. Requests must be received by the date specified in **DATES**. Such requests must be sent to the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule a public hearing on this proposal, if requested, and announce the date, time, and place of the hearing, as well as how to obtain reasonable accommodations, in the **Federal Register** and local newspapers at least 15 days before the hearing. For the immediate future, we will provide these public hearings using webinars that will be announced on the Service's website, in addition to the **Federal Register**. The use of virtual public hearings is consistent with our regulations at 50 CFR 424.16(c)(3).

Peer Review

In accordance with our policy, ''Notice of Interagency Cooperative Policy for Peer Review in Endangered Species Act Activities,'' which was published on July 1, 1994 (59 FR 34270), and our August 22, 2016, Director's Memorandum ''Peer Review Process,'' we will seek the expert opinions of at least three appropriate and independent specialists regarding the scientific data and interpretations contained in this proposed rule. We will send copies of this proposed rule to the peer reviewers immediately following publication in the **Federal Register**. We will ensure that the opinions of peer reviewers are objective and unbiased by following the guidelines set forth in the Director's Memo, which updates and clarifies Service policy on peer review (U.S. Fish and Wildlife Service 2016, entire). The purpose of such review is to ensure that our decisions are based on scientifically sound data, assumptions, and analysis. Accordingly, our final decision may differ from this proposal.

Previous Federal Actions

On April 10, 1990, we published a final rule listing palo de rosa as an endangered species in the **Federal Register** (55 FR 13488). The final rule identified the following threats to palo de rosa: Loss of habitat due to past deforestation and urban development; forest management practices that do not take the species into consideration; inadequacy of existing regulatory mechanisms; and the species' vulnerability to natural disturbances such as flash flooding along stream beds. On September 20, 1994, we completed the recovery plan for this species (USFWS 1994, entire). We completed a 5-year status review on August 9, 2017 (USFWS 2017, entire). In that review, we recommended that palo de rosa be downlisted to threatened because new occurrences of the species have been located and a substantial number of individuals have been documented (*i.e.,* 963 adult individuals (not considering seedlings or saplings) in 54 subpopulations). The 5-year review is available at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2020–0059.

For additional details on previous Federal actions, see Recovery, below. See *https://ecos.fws.gov/ecp0/profile/speciesProfile?spcode=Q2EK* for the species profile for this tree.

I. Proposed Reclassification Determination

Species Information

A thorough review of the taxonomy, life history, ecology, and overall viability of the palo de rosa was presented in the 5-year review (USFWS 2017, entire). Below, we present a summary of the biological and distributional information discussed in the 5-year review and new information published or obtained since.

Taxonomy and Species Description

Palo de rosa is a small evergreen tree that may reach up to 15 meters (m) (49 feet (ft)) in height and is a member of the Icacinaceae family (USFWS 1994, p. 1). The branches are smooth and dark gray and have conspicuous small lenticels (raised pores on the stem of a woody plant that allows gas exchange with the atmosphere and internal tissues) (Liogier 1994, p. 41). Leaves are ovate, are rounded or in some cases elliptic, and occasionally have an acute apex and short (6–8 millimeters (mm) (0.2–0.3 inches (in)) petiolate; flowers are solitary or grouped in a three to five flower cluster. The fruit is about 2.5 centimeters (cm) (0.98 in) long and up to 2.2 cm (0.86 in) wide and is smooth and with a thin outer layer that turns dark purple when ripe. The seed is about 2 cm (0.8 in) long (Liogier 1994, p. 41; Santiago Valentín and Viruet-Oquendo 2013, p. 62). Palo de rosa may be difficult to identify when sterile.

Reproductive Biology

When the palo de rosa recovery plan was written, information about the flowering and fruiting pattern was limited due to the species not being well-studied and the infrequent observation of reproductive events, although flowering was observed in May and July 1993 (USFWS 1994, p. 5). A morphological description of the palo de rosa flower and fruit was completed based on material collected from wild individuals, cultivated material, and data from herbarium specimens (Santiago-Valentín and Viruet-Oquendo 2013, entire). The species bears hermaphrodite flowers, flowers for a short period at the beginning of the rainy season and develops fruits subsequently until November (Breckon and Kolterman 1993, p. 15; Santiago-Valentín and Viruet-Oquendo 2013, p. 62). Few buds and flowers occurred from April to May, with an explosive flowering in June, coinciding with the beginning of the rainy season in May. Herbarium specimens demonstrated flowering and fruiting between May and July, with an exception of one specimen with flowers collected in December (Santiago-Valentin and Viruet-Oquendo 2013, p. 62). Flower and fruit production are documented in individuals with diameters at breast high greater than 5 in (12.7 cm). Despite the high number of adult individuals reported, only a few reach that stem size (Breckon and Kolterman 1993, p. 15; USFWS 2009, unpubl. data).

The cluster distribution of seedlings under the parent trees indicates that seeds are dispersed by gravity. Subpopulations in northern Puerto Rico are located on top of limestone hills indicating that some disperser (*e.g.,* animal vector) took them there in the past (USFWS 2017, p. 12). Fruit-eating bats are a possible seed disperser (Breckon and Kolterman 1993, p. 15). However, camera monitoring of a tree bearing mature fruits at the Guánica Commonwealth Forest (GCF) showed that despite the high availability of mature fruits, bats ignored them (Monsegur-Rivera 2004, pers. obs.). The Puerto Rican flower bat (*Phyllonycteris major*) is an extirpated frugivorous bat (Rodríguez-Durán and Kunz 2001, p. 358), and could have acted as a natural disperser of palo de rosa (Monsegur-Rivera 2004–present, pers. obs.). Another hypothesis is that bats no longer recognize palo de rosa fruit as a food source due to the small size of the currently known subpopulations when compared to other food sources (Monsegur-Rivera 2004–present, pers. obs.). Dispersal by water has been hypothesized for the subpopulations in the southern coast, as these subpopulations are located at the bottom of small drainages. However, observations in GCF indicate that establishment of seedlings in these drainages is low, because seeds are buried by sediments and small plants are uprooted by high flows during storms (Monsegur-Rivera 2007, pers. obs.).

Due to the infrequency of fruit production, germination experiments have been limited. Attempts to germinate seeds from the Dorado (Mogotes de Higuillar) population (northern Puerto Rico) have proven to be difficult (10 percent success) as the majority of seeds were attacked by insects (Coleoptera) (Ruiz Lebrón 2002, p. 2). The species also has been germinated by PRDNER and the University of Puerto Rico (Caraballo 2009, pers. comm.). In February 2007, a preliminary germination trial of palo de rosa obtained a 50 percent germination success (Monsegur-Rivera, unpubl. data). The germination starts with the development of a long taproot, probably an adaptation to secure the establishment of the seedlings under closed canopy conditions with a thick bed of leaf litter. Despite damage to the apical meristem (tissue in which new stem and root growth occurs) of the seedlings, seedlings were able to regrow and produced a new stem (Monsegur-Rivera, unpubl. data). This finding indicates that propagation of the species is feasible and may be used in palo de rosa recovery efforts. Palo de rosa is not known to reproduce vegetatively, although multiple stems may regrow from a tree that has been cut.

Distribution, Abundance, and Habitat

Palo de rosa was described by Ignatius Urban (1908) from material collected by Leopold Krug near the municipality of Mayagüez in 1876 (Liogier 1994, p. 42). Based on the description of the type locality (area from where the species was originally collected and described), the collection site may correspond to an area known as Cerro Las Mesas. At the time of listing, palo de rosa was known from nine individuals in three areas and considered endemic to Hispaniola and Puerto Rico (55 FR 13488, April 10, 1990, p. 55 FR 13489). Subpopulations and populations were not defined or identified at the time of listing. The species was known from the limestone hills near the municipality of Bayamón in northern Puerto Rico, several sites in the GCF in southwest Puerto Rico, and one individual on the southern slopes of the Maricao Commonwealth Forest (MCF) (55 FR 13488, April 10, 1990, p. 55 FR 13489).

At the time the recovery plan was written in 1994, there was little information on the species' distribution, ecology, and reproductive biology; therefore, in the recovery plan, species experts considered each subpopulation or cluster of individuals as a population. The recovery plan describes additional individuals observed as a result of increased survey efforts in suitable habitat. In the 1994 recovery plan, we estimated 200 palo de rosa individuals in 16 populations (now defined as subpopulations and noted with ''(RP)'' in the table below). An additional population (now considered a subpopulation) was reported in 1996, increasing the total number of trees to 207 adult individuals (Breckon and Kolterman 1996, p. 4).

The current understanding of palo de rosa's biological and ecological requirements has led us to define a population as a geographical area with unique features (substrate or climate) and continuous forested habitat that provides for genetic exchange among subpopulations (*i.e.,* cross-pollination) where the species occurs. We further considered natural barriers (*e.g.,* mountain ranges and river valleys) and extensive gaps of forested habitat to discern the boundaries of these broader populations because connectivity between subpopulations is critical to support a functional population of palo de rosa due to the cross-pollination requirement of the species. Furthermore, the flowering of palo de rosa is sporadic and not synchronized, thus prompting us to further define a population as groups of subpopulations that show connectivity to secure cross-pollination. Based on the above information, we have determined palo de rosa to be distributed across Puerto Rico in 14 populations composed of 66 subpopulations containing 1,144 individuals (not including seedlings). Following this approach, 8 of the 14 current populations (containing 47 subpopulations with approximately 804 individuals) occur in the geographical areas associated with the 16 populations (now defined as subpopulations) included in the Service's 1994 recovery plan. Since 1994, we have identified 6 additional populations (as currently defined) composed of 19 subpopulations (342 individuals) ranging in size from 5 to 124 individuals in areas associated with remnants of forested habitat suitable for the species. Thus, these additional occurrences are key in understanding the current condition of the species.

Currently, the number of palo de rosa individuals has increased from 9 individuals on protected lands at the time of listing to 407 individuals (representing 36 percent of known individuals or 32 percent of subpopulations) currently occurring in areas managed for conservation (*e.g.,* Commonwealth Forest and Federal lands; see table, below). An additional 396 individuals (38 percent of subpopulations) occur in areas subject to little habitat modification due to the steep topography in the northern karst region of Puerto Rico (see table, below). The remaining 30 percent of the subpopulations (containing approximately 341 individuals) occur within areas severely encroached and vulnerable to urban or infrastructure development (see table, below). However, the resiliency of all subpopulations depends on interaction (cross-pollination) with nearby subpopulations. Despite the increase in the number of known subpopulations and individuals, there are no records of recruited individuals reaching reproductive size in the past three decades. We also do not have any records of recent dispersal and range expansion of the species. The following discussion provides the most updated information on these populations, and their respective geographical areas.

TABLE OF CURRENTLY KNOWN NATURAL POPULATIONS, SUBPOPULATIONS, AND NUMBER OF ADULT INDIVIDUALS OF PALO DE ROSA IN PUERTO RICO

Population	Subpopulation name	Municipality	Evidence of reproduction or recruitment	Number of adults	Development threat [2]	Source
Guánica Commonwealth Forest (GCF).	La Cobana (GCF) (RP) [2].	Yauco	No	7	2	Breckon and Kolterman 1993, p. 4.
	Hoya Honda (GCF) (RP) [2].	Guánica	Yes	16	2	Breckon and Kolterman 1993, p. 4; USFWS 2018, unpubl. data; Monsegur 591, MAPR herbarium.[3]
	Cañon Los Murciélagos (GCF) (RP) [2].	Guánica	Yes	5	2	Breckon and Kolterman 1993, p. 4.
	Cañon Las Eugenias (GCF).	Yauco	No	3	2	Monsegur-Rivera 2009, pers. obs.
	Cañon Las Trichilias (GCF).	Guánica	Yes	49	2	Breckon and Kolterman 2003, p. 4; USFWS 2018, unpubl. data; Monsegur 240, 252 and 880, MAPR herbarium [3]; Breckon 7012, MAPR herbarium.[3]
	Yauco Landfill	Yauco	Yes	40	2	Monsegur-Rivera 2015; Monsegur 1591, MAPR herbarium.[3]
Montes de Barinas	Montes de Barinas.	Yauco	No	5	0	Morales 2011, pers. comm.
Guayanilla-Peñuelas	Guayanilla-CORCO (RP) [2].	Guayanilla	Yes	53	0	Breckon and Kolterman 1993, p. 4; Monsegur-Rivera 2014, unpubl. data; Breckon 4590 and 5201, MAPR herbarium [3]; Monsegur 1586, MAPR herbarium.[3]
Susúa Commonwealth Forest (SCF).	Quebrada Peces-SCF (RP) [2].	Yauco	No	11	2	Breckon and Kolterman 1993, p. 4.
	Quebrada Grande-SCF (RP) [2].	Yauco	Yes	59	2	Breckon and Kolterman 1993, p. 4.
	Río Loco-SCF (RP) [2].	Yauco	No	25	2	Breckon and Kolterman 1993, p. 4.
Cerro Las Mesas and Sierra Bermeja.	Sierra Bermeja (RP) [2].	Cabo Rojo-Lajas	No	2	2	Envirosurvey, Inc. 2016; Monsegur 1583, MAPR herbarium.[3]
	Guaniquilla-Buye (RP) [2].	Cabo Rojo	No	2	0	Monsegur-Rivera 2009, pers. obs.
Aguadilla-Quebradillas	Aguadilla Road PR–2.	Aguadilla	No	1	0	PRHTA [4] 2007, entire.
	Ramey Solar Observatory.	Aguadilla	No	1	1	Acevedo-Rodríguez 2014; Acevedo-Rodríguez 15931, U.S. herbarium.[5]
	Guajataca Commonwealth Forest.	Isabela	No	2	2	Monsegur-Rivera 2009; Monsegur 1051, MAPR herbarium.[3]
	El Costillar-Río Guajataca (RP) [2].	Isabela	Yes	14	1	Breckon and Kolterman 1993, p. 4; Monsegur 1578, MAPR herbarium.[3]
	Río Guajataca (RP) [2].	Isabela	No	1	1	Breckon and Kolterman 1993, p. 4.
	Cara del Indio-Guajataca.	Isabela	No	5	1	PRHTA [4] 2007, entire; Monsegur 1559, MAPR herbarium.[3]
	El Túnel-Guajataca (RP) [2].	Isabela	Yes	24	1	Breckon and Kolterman 1993, p. 4.
	Quebrada Columbiana.	Quebradillas	No	5	1	PRHTA [4] 2007, entire.
	Guajataca Gorge south.	Quebradillas	No	1	1	PRHTA [4] 2007, entire.
	Merendero-Guajataca.	Quebradillas	No	2	1	PRDNER 2009, entire; Monsegur 1087, MAPR herbarium.[3]

TABLE OF CURRENTLY KNOWN NATURAL POPULATIONS, SUBPOPULATIONS, AND NUMBER OF ADULT INDIVIDUALS OF PALO DE ROSA IN PUERTO RICO—Continued

Population	Subpopulation name	Municipality	Evidence of reproduction or recruitment	Number of adults	Development threat [2]	Source
	Quebrada Bellaca.	Quebradillas	No	3	1	Trejo 2441, UPR herbarium.[6]
	Arca de Noe	Quebradillas	No	4	0	PRHTA [4] 2007, entire.
	Piedra Gorda	Camuy	No	1	1	Trejo 2533, UPR herbarium.[6]
	Quebradillas 481	Quebradillas	No	8	0	PRDNER 2015, entire.
Camuy-Hatillo	Río Camuy PR–2 (RP) [2].	Camuy	Yes	10	1	USFWS 2017; Breckon 8126, MAPR herbarium.[3]
	R. Ortiz and Sons Quarry.	Hatillo	No	16	1	Sustache-Sustache 2010, entire.
	Río Camuy-Camino del Río.	Camuy	No	2	1	Monsegur-Rivera 2015, entire.
	Río Camuy oeste	Camuy	Yes	33	1	PRHTA [4] 2007, entire.
	Río Camuy este	Hatillo	No	7	1	PRHTA [4] 2007, entire.
Arecibo	Mata de Plátano	Arecibo	No	2	2	Trejo 2408, UPR herbarium.[6]
	El Tallonal	Arecibo	No	12	2	Trejo 2462, UPR herbarium.[6]
	Highway PR–10	Arecibo	No	1	2	Axelrod 8134, UPRRP herbarium.[7]
Utuado-Ciales (Río Encantado)	Las Abras	Arecibo-Ciales	Yes	32	1	Trejo 2222 and 2473, UPR herbarium.[6]
	Ciales High School.	Ciales	No	2	1	Sustache 685 and 688, SJ herbarium.[8]
	Senderos de Miraflores.	Arecibo	No	2	1	USFWS 2009, entire.
	Miraflores Ward	Arecibo	No	1	1	Acevedo-Rodríguez 11717, U.S. herbarium.[5]
Arecibo-Vega Baja	Cambalache Commonwealth Forest (RP) [2].	Arecibo	No	15	2	Breckon and Kolterman 1993, p. 4; Breckon 8325, MAPR herbarium.[3]
	Tortuguero Lagoon.	Manati	No	1	2	Breckon 8325, MAPR herbarium.[3]
	Hacienda Esperanza.	Manati	Yes	51	2	Monsegur-Rivera 2009; Monsegur 1038, MAPR herbarium [3]; USFWS 2018, unpubl. data.
	Ciudad Médica del Caribe.	Manatí	Yes	59	1	PRDNER 2013, entire.
	Highway PR–604	Manatí	No	2	0	Breckon 8153, MAPR herbarium.[3]
	Highway PR–22	Vega Baja	No	7	0	USFWS 2018, unpubl. data.
	Highway PR–155	Vega Baja	Yes	31	0	USFWS 2018, unpubl. data; Acevedo-Rodríguez 12293, U.S. herbarium.[5]
	Vega Serena	Vega Baja	No	3	0	Monsegur 1091, MAPR herbarium.[3]
	Productora de Agregados.	Vega Baja	No	15	0	PRDNER 2009, entire.
	Vía Verde	Manatí	No	1	1	PREPA [9] 2010, entire.
Dorado	Hacienda Sabanera.	Dorado	Yes	101	1	USFWS 2018, unpubl. data; Monsegur 1584, MAPR herbarium.[3]
	Higuillar Avenue	Dorado	Yes	23	0	Monsegur-Rivera and Sustache-Sustache 2011, entire.
La Virgencita	La Virgencita south.	Dorado	Yes	41	0	PRDNER 2015; USFWS 2018, unpubl. data; Monsegur 1648, MAPR herbarium.[3]
	La Virgencita north.	Dorado	Yes	42	0	USFWS 2018, unpubl. data.
	Río Lajas	Dorado	No	5	0	Trejo 2276, UPR herbarium.[6]
	Highway PR–142	Dorado	No	2	0	USFWS 2018, unpubl. data.
Mogotes de Nevares	Mogotes de Nevares.	Toa Baja	Yes	30	0	PRDNER 2009, entire.
	Mogotes de Nevares/ Campanilla.	Toa Baja	No	8	0	Morales 2014, entire.
	Mogotes de Nevares/ Holsum.	Toa Baja	No	13	0	USFWS 2018, unpubl. data.
	Primate Center	Toa Baja	Yes	4	1	Santiago-Valentín and Rojas-Vázquez 2001, entire.
	Sabana Seca	Toa Baja	Yes	10	2	USFWS 2017, p. 8.
San Juan-Fajardo	Parque Monagas	Bayamon	Yes	70	2	USFWS 2018, unpubl. data; Monsegur 1582, MAPR herbarium.[3]
	Parque de las Ciencias.	Bayamón	Yes	39	1	PRDNER 2013; Proctor 50105, SJ herbarium.[8]
	Fort Buchanan (RP) [2].	Guaynabo	Yes	25	2	USFWS 2018, unpubl data; Rodríguez-Cruz 2013, pers. comm.; Monsegur 1576, MAPR herbarium.[3]
	Mogotes de Caneja.	Guaynabo	Yes	30	1	Breckon 5208, MAPR herbarium [3]; Proctor 51111, SJ herbarium.[8]

TABLE OF CURRENTLY KNOWN NATURAL POPULATIONS, SUBPOPULATIONS, AND NUMBER OF ADULT INDIVIDUALS OF PALO DE ROSA IN PUERTO RICO—Continued

Population	Subpopulation name	Municipality	Evidence of reproduction or recruitment	Number of adults	Development threat [2]	Source
	Monte Picao	Canóvanas	Yes	46	0	PRDNER 2013, entire.
	El Convento	Fajardo	No	1	2	PRDNER 2009; Liogier 32299, UPR herbarium.[6]
Totals	66 Subpopulations.	.....	26 Yes ..... 40 No	1,144 adults	20 Vulnerable. 25 Low. 21 Protected.	

[1] In the Development Threats column, 0 = Vulnerable to development; 1 = Low vulnerability due to topography; and 2 = Protected.
[2] (RP) indicates subpopulations known at the time the recovery plan was finalized (1994).
[3] ''MAPR herbarium'' is the herbarium of the Department of Biology at the University of Puerto Rico at Mayaguez.
[4] ''PRHTA'' is the Puerto Rico Highway and Transportation Authority.
[5] ''U.S. herbarium'' is the United States National Herbarium.
[6] ''UPR herbarium'' is the Botanical Garden of the University of Puerto Rico.
[7] ''UPRRP herbarium'' is the herbarium of the University of Puerto Rico at Rio Piedras.
[8] ''SJ herbarium'' is the herbarium of the University of Puerto Rico at San Juan.
[9] ''PREPA'' is the Puerto Rico Energy and Power Authority.

The distribution of palo de rosa extends along the southern coast of Puerto Rico, from the municipality of Cabo Rojo east to the municipality of Guayanilla, in five geographical areas or populations: (1) Guánica Commonwealth Forest, (2) Montes de Barinas, (3) Guayanilla-Peñuelas, (4) Susúa Commonwealth Forest, and (5) Cerro Las Mesas-Sierra Bermeja. In addition, palo de rosa extends along the northern coast of Puerto Rico from the municipality of Aguadilla east to the municipality of Fajardo in the following nine areas or populations: (1) Aguadilla-Quebradillas, (2) Camuy-Hatillo, (3) Arecibo, (4) Utuado-Ciales, (5) Arecibo-Vega Baja, (6) Dorado, (7) La Virgencita, (8) Mogotes de Nevares, and (9) San Juan-Fajardo (USFWS 2017, p. 11).

The range of the species extends to Hispaniola (Dominican Republic and Haiti) (Acevedo-Rodríguez and Strong, 2012, p. 369; Axelrod 2011, p. 184); however, there is little information on the population structure and status of palo de rosa in these countries, and information is limited to scattered herbarium collections. In the Dominican Republic, the species occurs in Provincia (Province) de La Altagracia, Provincia de Samaná, Provincia de Puerto Plata, Provincia de Pedernales, and Provincia de San Cristobal (JBSD, unpubl. data). On the northern coast of Haiti, palo de rosa has been recorded at ''Massif du Nord'' along a dry river (JBSD, unpubl. data). However, these herbarium specimens provide no data on the subpopulation or population abundance or number of associated individuals. Palo de rosa is categorized as critically endangered according to the Red List of Vascular Flora in the Dominican Republic (*Lista Roja de la Flora Vascular en República Dominicana*), an assessment of the conservation status of all vascular plants in the Dominican Republic as determined by the Ministry of Higher Education Science and Technology Ministry (Garcia et al. 2016, p. 4).

The following information summarizes the current abundance, distribution, and habitat of palo de rosa populations in Puerto Rico.

Populations Along the Southern Coast of Puerto Rico

Guánica Commonwealth Forest (GCF): The GCF is a natural area comprising one of the best remnants of subtropical dry forest vegetation in Puerto Rico and still harbors remnants of pristine dry limestone forest (primary vegetation) that is prime habitat for palo de rosa (Monsegur-Rivera 2009, p. 3). The GCF has been managed for conservation since 1930, following its designation as a public forest in 1917 (Álvarez *et al.* 1990, p. 3; Murphy and Lugo 1990, p. 15). The climate in this forest is seasonal, with most precipitation occurring between September and October (Lugo *et al.* 1978, p. 278).

All known palo de rosa subpopulations found within the dry limestone forests along the southern coast of Puerto Rico occur at the bottom of forested ravines (areas that provide enough moisture for seedling recruitment). These ravines are mesic (moist) habitats where evidence of natural recruitment has been documented (Monsegur-Rivera 2003–2018, pers. obs.). Eighty palo de rosa individuals have been documented in five subpopulations within the GCF (see table, above) (Breckon and Kolterman 1993, p. 4; Monsegur-Rivera 2009–2018, pers. obs.; USFWS 2018, unpubl. data). Fruit production has been recorded at Cañón Hoya Honda, Cañón Los Murciélagos, and Cañón Las Trichilias (USFWS 2017, pp. 7–8) (see table 1, above). Despite the overall dry habitat conditions at the GCF, natural recruitment of this species has been recorded at Cañón Hoya Honda and Cañón Las Trichilias. The Yauco Landfill subpopulation provides connectivity with the northernmost GCF subpopulation, bringing the GCF population to 120 (see table, above) (USFWS 2017, p. 7).

Montes de Barinas: The range of palo de rosa extends from the GCF north to the Montes de Barinas hills (range of limestone hills along the boundary of the municipalities of Yauco and Guayanilla) in habitat similar to that of the GCF (Monsegur-Rivera 2009–2018, pers. obs.). This is a tract of privately owned lands located primarily along Indios Ward in the municipality of Guayanilla, and Cambalache Ward in the municipality of Yauco. The forest was partially logged for charcoal production and ranching; however, the prime habitat for native and endemic plant species remains undisturbed due to its marginal agricultural value (79 FR 53315, September 9, 2014, p. 79 FR 53326). The number of palo de rosa individuals may be greater than the five currently known, as this habitat has not been adequately surveyed (Morales 2011, pers. comm.).

Guayanilla-Peñuelas: The range of palo de rosa extends east to Cedro Ward in the municipality of Guayanilla, where the species was collected along a forested drainage (MAPR, unpubl. data). This population is composed of at least 53 individuals, with some evidence of natural recruitment (Monsegur-Rivera 2014, unpubl. data), suggesting the population is stable (USFWS 2017, p. 15) (see table, above). Additional subpopulations may occur on undisturbed habitat remnants of evergreen dry forest over limestone substrate in the municipality of Peñuelas (north of the Peñuelas

Landfill) (Monsegur-Rivera 2020, pers. obs.).

Susúa Commonwealth Forest (SCF): The habitat of palo de rosa includes moist drainages and rivers on serpentine soils within the Susúa Commonwealth Forest (SCF). Palo de rosa is known from 95 individuals (including saplings) in three subpopulations in the SCF (see table, above) (Breckon and Kolterman 1993, p. 4; UPR, unpubl. data). No seedlings have been recorded in surveys of the SCF population (Breckon and Kolterman 1993, p. 4; Hamilton 2018, p. 31).

Similar habitat on serpentine soils extends northwest of the SCF to the boundaries of the MCF. In this forest, palo de rosa is historically known from a single individual in the upper watershed of the Río Cupeyes (Cupeyes River), on the edge of former State Road PR–362 (MAPR, unpubl. data). The palo de rosa tree was apparently killed due to lightning damage, although other individuals may occur in this inaccessible area (Monsegur-Rivera 2006, pers. obs.).

Cerro Las Mesas (Mayagüez) and Sierra Bermeja (Lajas and Cabo Rojo): The type specimen collected in 1876 was likely collected between Cerro Las Mesas in the municipality of Mayagüez and the area north of Poblado Rosario in the municipality of San German (Monsegur-Rivera 2018, pers. obs.). Cerro Las Mesas is the westernmost distribution of the serpentine outcrops in Puerto Rico and lies within the subtropical moist forest life zone (Ewel and Witmore 1973, p. 72). Palo de rosa was misidentified in the Sierra Bermeja subpopulation, then discovered in 2015 at La Tinaja on the Laguna Cartegena National Wildlife Refuge (LCNWR) and in 2016 on a property known as Finca María Luisa, currently under a conservation easement managed by Para La Naturaleza, Inc. (PLN), the operational unit of The Conservation Trust of Puerto Rico (see table, above) (Breckon and Kolterman 1996, p. 6; PLN 2013, entire; Envirosurvey, Inc. 2016, p. 9; MAPR, unpubl. data). The Sierra Bermeja subpopulation co-occurs with five other federally listed plants, indicating high-quality habitat with potential for undetected palo de rosa. The two individuals in the Guaniquilla-Buye subpopulation occur in an area with small hills with limestone outcrops that is located about 9.6 kilometers (6 miles) west-northwest of Sierra Bermeja, adjacent to an area known as Punta Guaniquilla in the municipality of Cabo Rojo (see table, above) (Vázquez and Kolterman 1998, p. 277).

Populations Along the Northern Coast of Puerto Rico

Palo de rosa also occurs in the northern limestone belt in the karst region of Puerto Rico. This area along the northern coast is important to the conservation of palo de rosa (USFWS 2017, p.11). Despite deforestation for agriculture in the 1930s, a west-to-east band of continuous forested landscape extends from Aguadilla to San Juan, and additional limestone outcrops extend to the northeast corner of Puerto Rico in the municipalities of Loíza and Fajardo (Lugo *et al.* 2001, pp. 1–2; Miller and Lugo 2009, p. 95). The southern and northern limestone belts differ in climate, with wet and moist life zones (*sensu* Holdridge 1967) characterizing the environmental conditions along the north coast of Puerto Rico (Lugo *et al.* 2001, p. 5). The karst area is characterized by a steep topography and a dense concentration of haystack hills or *mogotes,* with valleys and sinkholes between the hills (Lugo *et al.* 2001, p. 11). The steep topography and low agricultural value provide refugia and serve as a seed source for natural regeneration on adjacent forested lands following the abandonment of agricultural lands.

Aguadilla-Quebradillas (including the Río Guajataca): Fourteen subpopulations make up the Aguadilla-Quebradillas population. The westernmost subpopulation of palo de rosa occurs in the municipality of Aguadilla (USFWS 2017, p. 7). The two subpopulations in this municipality are single trees, with no evidence of recruitment (see table, above) (Monsegur-Rivera 2015, pers. obs.; UPR unpubl. data). Rare endemic plants along the cliff areas from Aguadilla to Quebradillas highlight the good habitat quality; hence, more individuals of palo de rosa may occur in this area and in suitable habitat south and east of the municipality of Aguadilla, along an area known as Cordillera Jaicoa, a rough karst region between the municipalities of Moca and Isabela (Caraballo and Santiago-Valentín 2011, p. 2; Acevedo-Rodríguez 2014, p. 7).

Cordillera Jaicoa extends east to the Guajataca Commonwealth Forest (GuCF), which is in the municipality of Isabela and covers about 2,357 ac (953.8 ha) (PRDNER 2008, p. 1). Palo de rosa is known from one subpopulation at the GuCF with no evidence of recruitment (USFWS 2017, p. 7). Fifty-two individuals in seven subpopulations of palo de rosa occur in or near the Río Guajataca (Guajataca Gorge), with natural recruitment recorded in the two largest subpopulations (see table, above) (Breckon and Kolterman 1996, p. 4; Monsegur-Rivera 2003–2018, pers. obs.; PRHTA 2007, pp. 16–18; USFWS 2017, p. 7).

Four additional scattered subpopulations with 16 palo de rosa individuals occur in the municipality of Quebradillas and Camuy (PRHTA 2007, pp. 16–18; PRDNER 2015, p. 16; UPR, unpubl. data), just east of Lago Guajataca (Guajataca Reservoir). Thus, the current number of individuals for the subpopulations in Aguadilla, the GuCF, the Guajataca Gorge, and neighboring lands is at least 72 individuals distributed along variable size classes, and with evidence of recruitment in at least two subpopulations (see table, above).

Camuy-Hatillo (Río Camuy): Another population of palo de rosa occurs along the margins of the Río Camuy, between the municipalities of Camuy and Hatillo. Five subpopulations have been discovered since 2006 (see table, above) (Sustache-Sustache 2010, p. 7; Monsegur-Rivera 2015, pers. obs.; MAPR, unpubl. data). Two subpopulations have seedlings and evidence of recruitment (see table, above) (PRHTA 2007, p. 19; Morales 2014, unpubl. data; USFWS 2017, p. 8). One subpopulation was recorded during the evaluation for a proposed quarry expansion and noted in association with other endemic trees (*e.g., Manilkara pleeana* (mameyuelo) and *Polygala cowellii* (árbol de violeta)) (Sustache-Sustache 2010, p. 7). As the Guajataca Gorge and the Río Camuy areas remain relatively unexplored, we expect additional individuals of palo de rosa may occur there. The current estimated number of palo de rosa individuals in the Camuy-Hatillo population is 68 adults (see table, above).

Arecibo (including Río Tanamá and Río Abajo Commonwealth Forest): Farther east, three palo de rosa subpopulations occur in the Arecibo municipality. Two of the three subpopulations occur in the 159-ha (392-ac) natural areas of El Tallonal and Mata de Plátano with an approved Private Forest Stewardship Management Plan (PRDNER 2005, entire). Available information indicates that at least 15 individuals occur on El Tallonal, Mata de Plátano, and the Río Abajo Commonwealth Forest (RACF) (see table, above). Additional subpopulations may occur along the margins of the Río Tanamá (Tanamá River) and the steep cliff areas in the RACF. The forested corridor of the Río Tanamá connects Mata de Plátano and El Tallonal to the RACF between the municipalities of Arecibo and Utuado, where palo de rosa also occurs.

Although palo de rosa is known only from one individual in the RACF collected in 1994, suitable habitat occurs within the RACF and the species may be found within the forest boundaries (Acevedo-Rodríguez and Axelrod 1999, p. 277).

Utuado-Ciales (Río Encantado): Palo de rosa subpopulations extend east of Lago Dos Bocas (Dos Bocas Reservoir) from Finca Opiola east to the town of Ciales (Río Encantado), in habitat similar to the RACF. The general area is known as the Río Encantado Natural Protected Area, a mosaic of forested habitat among the municipalities of Florida, Manatí, and Ciales, occupying 736 ha (1,818 ac) managed by PLN (PLN 2011b, p. 5). At least 37 palo de rosa individuals occur in four subpopulations, with one subpopulation (Las Abras) showing some evidence of recruitment. The Río Encantado area remains botanically unexplored due to the remoteness and steepness of the terrain; thus, we anticipate that additional palo de rosa subpopulations may occur in the Río Encantado area. Additional subpopulations of this species extend north to a low (west to east) chain of *mogotes* at Miraflores Ward, in Arecibo.

Arecibo-Vega Baja (including Cambalache Commonwealth Forest (CCF), Laguna Tortuguero Natural Reserve (LTNR), and Hacienda La Esperanza Natural Reserve): The Arecibo-Vega Baja population includes 10 subpopulations, 3 of which show evidence of recruitment (see table, above). Subpopulations occur within the protected areas of the CCF, the LTNR between the municipalities of Manatí and Vega Alta, and at Hacienda La Esperanza Natural Reserve in the municipality of Manatí (see table, above) (Breckon and Kolterman 1993, p. 4; PLN 2011a, p. 3). Hacienda La Esperanza Natural Reserve is managed by PLN, and covers an area of approximately 925 ha (2,286 ac) between the CCF and the LTNR, including a coastal valley with cemented sand dunes and a series of *mogotes* that provide habitat for palo de rosa (PLN 2011a, p. 3). Additional palo de rosa individuals may occur in this subpopulation as the entire area with suitable habitat has not been surveyed. Five additional subpopulations of the species occur on private lands in the municipalities of Manatí and Vega Baja (see table, above). Thus, the current number of individuals for the region between the CCF, Hacienda La Esperanza Natural Reserve, LTNR, and neighboring private lands is at least 185 plants (see table, above). An historical specimen from Islote Ward in Arecibo indicates the species' habitat extended to the sand dunes in the past (UPR, unpubl. data). However, this specimen is from the 1940s, and the area of Islote has been almost entirely deforested for agriculture and urban development, we have determined this subpopulation is extirpated (Monsegur-Rivera 2006, pers. obs.).

Dorado (Mogotes de Higuillar): The area of Mogotes de Higuillar represents high-quality habitat for palo de rosa as evidenced by the two subpopulations with strong recruitment. The Hacienda Sabanera subpopulation (formerly known as Hacienda San Martín) was assessed pre- and post-hurricane and showed no loss of individuals (84 and 101, respectively) and had different size classes represented (see table, above) (USFWS 2017, p. 8; USFWS 2018, p. 12). The higher number of palo de rosa individuals recorded during 2018 does not mean a population increase compared to previous surveys as neither assessment covered the entire area of suitable habitat. The subpopulation discovered in 2011 just south of the Hacienda Sabanera subpopulation shows strong evidence of recruitment as well with adult trees, saplings, and hundreds of seedlings (Monsegur-Rivera and Sustache 2011, p. 3; USFWS 2017, p. 8). Thus, the number of palo de rosa individuals for the area comprising Mogotes de Higuillar and neighboring lands is at least 124, with evidence of natural recruitment that includes seedlings and saplings (see table, above).

La Virgencita: The distribution of palo de rosa extends south of Highway PR–22, to the area known as Cruce La Virgencita where the species was recorded in 2014. Of the four subpopulations, the La Virgencita south subpopulation habitat is highlighted by the presence of multiple endemic species and species with narrow distribution (PRDNER 2015, pp. 13–15). The four subpopulations in La Virgencita and adjacent *mogotes* are made up of at least 90 trees, with evidence of saplings and seedlings in the two La Virgencita subpopulations (see table, above). The presence of other rare species in adjacent *mogotes* is an indicator of potentially suitable palo de rosa habitat with little disturbance and highlights the possible occurrence of additional individuals.

Mogotes de Nevares and Sabana Seca: The range of palo de Rosa extends west of Río La Plata (La Plata River) to an area known as Mogotes de Nevares and north to the former Sabana Seca Naval Station in the municipality of Toa Baja. There are scattered records of the species from the area of Mogotes de Nevares, but early collections do not estimate abundance. The five subpopulations in Mogotes de Nevares include three subpopulations (Mogotes de Navares, Primate Center, and Sabana Seca) with evidence of recruitment (see table, above). A subpopulation occurs on the former Sabana Seca Naval Station and a second on an adjacent area near the Primate Research Center (Santiago-Valentín and Rojas Vázquez 2001, p. 57; Monsegur-Rivera 2006, pers. obs.). The best available information and recent survey data in the area of Mogotes de Nevares account for at least 65 individuals of different size classes, including seedlings (see table, above). Due to the good quality of the habitat and the presence of remnants of native vegetation, it is very likely additional, undetected subpopulations of palo de rosa occur along these *mogotes.*

San Juan Metropolitan Area (including neighboring municipalities of Bayamón and Guaynabo, and east to Fajardo): In the metropolitan area of San Juan, palo de rosa occurs at four subpopulations in the municipalities of Bayamón (2) and Guaynabo (2) (see table, above). Five of the subpopulations in the San Juan-Fajardo population show evidence of recruitment; only the El Convento subpopulation does not. The Parque Monagas subpopulation occurs in a small, forested area managed for recreation and shows evidence of recruitment post-Hurricane María (USFWS 2018, p. 21). The palo de rosa subpopulation in Fort Buchanan is noted in the 1994 recovery plan, and saplings and new seedlings were noted in a post-Hurricane María assessment (USFWS 2018, p. 25). The Fort Buchanan and Mogotes de Caneja subpopulations are part of a larger chain of *mogotes* known as Mogotes de Caneja that were fragmented due to the construction of Highway PR–22. Two subpopulations (Monte Picao and El Convento) occur east of the municipality of San Juan in small limestone outcrops (see table, above). Based on the available information, the palo de rosa subpopulations at Parque de las Ciencias, Parque Monagas, and Fort Buchanan (including the entire area of Mogotes de Caneja), and the scattered subpopulations along northeast Puerto Rico, are estimated at least 211 individuals, including saplings, and with evidence of seedling recruitment (see table, above).

Palo de rosa occurs in variable habitats but is dependent on the specific microhabitat conditions. On dry limestone forest like the GCF, the species occurs at the bottom of drainages that provide moisture, whereas at the SCF, palo de rosa occurs

along the borders of rivers. The subpopulations along the northern karst of Puerto Rico are found on the top of limestone hills, possibly because those areas have no agricultural value, and so were not impacted by conversion to agricultural lands. Such variability in habitats indicates the species' current fragmented distribution and lack of connectivity between populations are the result of earlier land-clearing and habitat modification. Information from specimens deposited at multiple herbaria (*i.e.,* New York Botanical Garden, Smithsonian Institution, UPR, UPRRP, and MAPR) suggests palo de rosa was originally more common and widespread throughout Puerto Rico.

Recruitment and Population Structure

At least 25 subpopulations of the 66 subpopulations show evidence of fruit production and seedling or sapling recruitment (see table, above) (USFWS 2017, pp. 8, 11–12). Fruit production and seed germination have been documented in several subpopulations (Monsegur-Rivera 2016, pers. obs.). However, individual palo de rosa trees grow extremely slowly and the growth of the saplings is also quite slow, with an estimated height of less than 1 m (3.3 ft) after 20 years growth. Therefore, it is estimated that, under natural conditions, individuals of palo de rosa may require at least 40 years to reach a reproductive size, and the currently known subpopulations are experiencing slow recruitment (Monsegur-Rivera 2018, pers. obs.). In addition, seeds of this species are not dispersed by any discernible method other than gravity. Thus, recruitment is limited to the proximity of the parental tree, limiting the species' potential to colonize further suitable habitat, and limiting the survival of clustered seedlings due to closed canopy conditions and competition with the parental tree.

Palo de rosa is a late successional species and requires several decades to reach a reproductive size under natural conditions. Evidence from herbarium specimens suggests that palo de rosa once extended to the coastal lowlands of Puerto Rico, including dune ecosystems. Population dynamics and survey assessments support the hypothesis that palo de rosa is a late successional species, whose saplings may remain dormant under closed canopy conditions, until there is some natural disturbance that provides favorable conditions for the development of the saplings. Thus, the species may require an open canopy to promote seedling growth and is adapted to natural disturbances such as hurricanes (Breckon and Kolterman 1996). Under this scenario, the natural populations show a slow natural recruitment that requires stable habitat conditions with a regime of natural disturbance (*i.e.,* tropical storms or hurricanes).

Reproductive events (*i.e.,* flowering and fruiting) have been associated with bigger trees as observed in four subpopulations, where tree diameters reach 13–20.5 cm (5.1–8.1 in) and canopies are higher (at least 10 m) (32.8 ft) (Breckon and Kolterman 1992, p. 8; USFWS 2009, p. 4). For example, one large tree in the El Costillar-Río Guajataca (subpopulation had an estimated 1,000 seedlings under one tree with an almost 90 percent survivorship of 156 monitored seedlings after 18 months (Breckon and Kolterman 1992, p. 8). Further visits to this subpopulation indicate the survival of seedlings and saplings remains high, with evidence of additional recruitment (Monsegur-Rivera 2007, 2012, and 2014, pers. obs.).

Recruitment may be intermittent in some subpopulations. For example, a subpopulation with no seedling survival following a fruiting event in 2004 was noted to contain about 30 small saplings in the post-Hurricane María assessment in 2018, suggesting the subpopulation is slowly recruiting (USFWS 2018, p. 25). Since 2009, hundreds of seedlings have been recorded in the Fort Buchanan subpopulation (Monsegur-Rivera 2009–present, pers. obs.). In 2018, at least 12 saplings ranging from 0.3–1.0 m (0.9–3.3 ft) were observed. Saplings this size can withstand seasonal drought stress, and individuals are likely to persist in the long term if the habitat remains unaltered. Cross-pollination between subpopulation maximizes the likelihood of fruit production and contributes to recruitment, which underscores the importance of conserving the species through a landscape approach.

Of the 26 subpopulations currently showing evidence of natural recruitment, 9 of the 26 occur in areas that are managed for conservation. The 9 subpopulations constitute 36 percent of subpopulations showing natural recruitment and contain nearly 300 individuals in total. There is no evidence of natural recruitment at this time for the remaining 40 subpopulations, although the species' life history implies that recruitment may still occur in these populations when a canopy opening is created and suitable conditions for recruitment are present. Forest cover in Puerto Rico has increased since the widespread deforestation in the 1930s–1950s (Marcano-Vega *et al.* 2015, p. 67), but the availability of suitable habitat prior to deforestation and habitat fragmentation implies palo de rosa may have had greater abundance and wider distribution. Although current information on population structure indicates the species requires some open canopy areas to promote recruitment, widespread deforestation fragments habitat and creates edges (habitat transition zones). The possible long-term negative effects of habitat fragmentation and edge effect on subpopulations with recruitment adjacent to habitat disturbance are still unknown. Current observations from the 2018 post-hurricane assessment suggest subpopulations encroached by development or agriculture were negatively affected by weedy vegetation invading the habitat following Hurricane María (*e.g., Cayaponia americana* (bejuco de torero), *Dioscorea alata* (ñame), and *Thunbergia grandiflora* (pompeya). However, the extent of such impact remains uncertain and further monitoring is needed. Such information highlights the effect of habitat fragmentation on the natural recruitment of palo de rosa.

Recovery Criteria

Section 4(f) of the Act directs us to develop and implement recovery plans for the conservation and survival of endangered and threatened species unless we determine that such a plan will not promote the conservation of the species. Recovery plans must, to the maximum extent practicable, include objective, measurable criteria which, when met, would result in a determination, in accordance with the provisions of section 4 of the Act, that the species be removed from the list.

Recovery plans provide a roadmap for us and our partners on methods of enhancing conservation and minimizing threats to listed species, as well as measurable criteria against which to evaluate progress towards recovery and assess the species' likely future condition. However, they are not regulatory documents and do not substitute for the determinations and promulgation of regulations required under section 4(a)(1) of the Act. A decision to revise the status of a species, or to delist a species is ultimately based on an analysis of the best scientific and commercial data available to determine whether a species is no longer an endangered species or a threatened species, regardless of whether that information differs from the recovery plan.

There are many paths to accomplishing recovery of a species, and recovery may be achieved without all criteria being fully met. For example, one or more criteria may be exceeded

while other criteria may not yet be accomplished. In that instance, we may determine that the threats are minimized sufficiently and that the species is robust enough that it no longer meets the definition of an endangered or threatened species. In other cases, we may discover new recovery opportunities after having finalized the recovery. Parties seeking to conserve the species may use these opportunities instead of methods identified in the recovery plan. Likewise, we may learn new information about the species after we finalize the recovery plan. The new information may change the extent to which existing criteria are appropriate for identifying recovery of the species. The recovery of a species is a dynamic process requiring adaptive management that may, or may not, fully follow all of the guidance provided in a recovery plan.

The following discussion provides an analysis of the recovery criteria and goals as they relate to evaluating the status of the taxon. The recovery plan for this species does not provide downlisting criteria (USFWS 1994, entire). The recovery plan for palo de rosa indicates the species could be considered for delisting when the following criteria are met: (1) Populations known to occur on privately owned land are placed under protective status; (2) an agreement between the Service and the U.S. Army concerning the protection of the species on their land (Fort Buchanan) has been prepared and implemented; and (3) mechanisms for the protection of palo de rosa have been incorporated into management plans for Maricao, Guánica, Susúa, and Cambalache Commonwealth Forests. Also, the plan notes that given the discovery of additional populations, priority should be given to enhancement and protection of existing populations in protected areas and the protection of palo de rosa on privately owned land (USFWS 1994, p. 13). At the time the recovery plan was written, only 200 individuals in 16 populations (currently defined as subpopulations) were known. In addition, the lack of recruitment in palo de rosa populations was not known to be a concern; therefore, recovery criteria primarily address protection of palo de rosa habitat. We apply our current understanding of the species' range, biology, and threats to these delisting criteria to support our rationale for why downlisting is appropriate.

Delisting criterion 1 has been partially met. At the time the recovery plan was written, 4 of 16 populations (now defined as subpopulations) occurred on private lands. Currently, of the 66 known palo de rosa subpopulations, 45 are located within private lands. From those 45, 3 subpopulations (*i.e.,* 7 percent of subpopulations, or 65 individuals) are under protective status (*e.g.,* Hacienda Esperanza, El Tallonal, and Mata de Plátano) (see table, above). The subpopulations on the private natural reserves of El Tallonal and Mata de Plátano are protected from habitat modification, and each has an approved private forest stewardship management plan that includes measures for the protection of listed species within the property (PRDNER 2005, entire). The palo de rosa individuals found at Hacienda La Esperanza Natural Reserve are protected, as this reserve also is managed for conservation by PLN, and the management plan considers palo de rosa in its activities (PLN 2011a, p. 67).

Additional conservation efforts have been implemented throughout coordination among the Service, the U.S. Environmental Protection Agency, and PRDNER resulting in the protection in perpetuity of approximately 257 acres of private forested habitat adjacent to the northern boundary of the GCF, which will benefit the Yauco Landfill palo de rosa subpopulation (PRDNER 2015, p. 1). This conservation effort maintains the connectivity between subpopulations and maximizes the species' viability. In addition, the PRDNER acquired private lands that included suitable habitat for palo de rosa and incorporated them into the GCF, increasing the protected area from the approximately 4,016 ha (9,923 ac) in 1996, to at least 4,400 ha (10,872 ac) (Monsegur 2009, p. 8).

While this criterion has only been partially met, with the identification of additional individuals, populations, and subpopulations, of the 1,144 palo de rosa individuals known, only 341 (29 percent) occur on private lands with no protection. Currently, 407 individuals (representing 36 percent of known individuals or 32 percent of subpopulations) occur in areas managed for conservation.

Together with our partners, we have met delisting criterion 2. In 2015, the Service signed an MOU with the U.S. Army and PRDNER for the protection, management, and recovery of palo de rosa at Fort Buchanan (U.S. Army, Fort Buchanan 2015, entire). As a result, the *mogote* where palo de rosa is found at the military base is managed for conservation, propagation and planting of palo de rosa has taken place, and the species is frequently monitored (USACE 2014, p. 3). Nonetheless, the viability of the Fort Buchanan subpopulation is influenced by interaction with other individuals in neighboring private lands and areas subject to development.

Lastly, we determine delisting criterion 3 to be obsolete. Although species-specific management plans do not exist for Commonwealth forests, the natural reserves are managed for conservation by PRDNER as recommended by the Master Plan for the Commonwealth Forests of Puerto Rico (DNR 1976, entire). These management efforts prevent adverse impacts to plants and animals, particularly listed species such as palo de rosa, and their habitats. Forest management protects palo de rosa along the southern coast of Puerto Rico where the GCF and SCF subpopulations (175 individuals) are located within the boundaries of these forests. The development of effective conservation mechanisms for the species outside Commonwealth forests also protects palo de rosa, as components of the resiliency of populations (*e.g.,* effective cross-pollination, fruit set, and natural recruitment) depend on the interactions among neighboring subpopulations. Thus, we continue working with PRDNER and other partners to monitor and survey suitable unexplored habitat for palo de rosa, to develop sound conservation strategies, and to proactively identify priority areas for conservation. Such conservation measures may include the maintenance and enhancement of effective forested buffer areas and corridors to provide connectivity between palo de rosa subpopulations, and to secure the microhabitat conditions necessary to promote the species' recruitment.

In conclusion, the implementation of recovery actions, in addition to the identification of numerous additional individuals and subpopulations, have reduced the risk of extinction for palo de rosa. Of the 1,144 adult palo de rosa individuals known, only 341 (29 percent) occur on private lands with no protection. Currently, 407 individuals (representing 36 percent of known individuals or 32 percent of subpopulations) occur in areas managed for conservation. Although many individuals occur on protected lands, we have identified 20 subpopulations throughout Puerto Rico where habitat modification and fragmentation can still occur. Puerto Rico's laws and regulations protect palo de rosa on both public and private lands, and other protection mechanisms (*i.e.,* conservation easements) have been implemented, but impacts to palo de rosa subpopulations may occur due to lack of enforcement, misidentification of the species, agricultural practices, and unregulated activities (see Summary of

Biological Status and Threats, below). Based on the biology of palo de rosa and its dependence on cross-pollination, impacts that reduce connectivity between subpopulations may affect the breeding capacity of the species, and thus its long-term recruitment and viability. The recovery of palo de rosa will include collaboration and partnership efforts with PRDNER and private landowners to develop conservation strategies and recommendations when evaluating urban and infrastructure development projects that could affect these subpopulations. Recovery efforts should be directed towards landscape planning and management strategies that would ensure abundance and distribution of palo de rosa subpopulations to allow cross-pollination and recruitment and contribute to the long-term recovery of palo de rosa.

Regulatory and Analytical Framework

Regulatory Framework

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species is an ''endangered species'' or a ''threatened species.'' The Act defines an ''endangered species'' as a species that is in danger of extinction throughout all or a significant portion of its range, and a ''threatened species'' as a species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether any species is an ''endangered species'' or a ''threatened species'' because of any of the following factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects. We consider these same five factors in downlisting a species from endangered to threatened or delisting a species (50 CFR 424.11(c)–(e)).

We use the term ''threat'' to refer in general to actions or conditions that are known to or are reasonably likely to negatively affect individuals of a species. The term ''threat'' includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term ''threat'' may encompass—either together or separately—the source of the action or condition or the action or condition itself.

However, the mere identification of any threat(s) does not necessarily mean that the species meets the statutory definition of an ''endangered species'' or a ''threatened species.'' In determining whether a species meets either definition, we must evaluate all identified threats by considering the expected response by the species, and the effects of the threats—in light of those actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species, then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species—such as any existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the definition of an ''endangered species'' or a ''threatened species'' only after conducting this cumulative analysis and describing the expected effect on the species now and in the foreseeable future.

The Act does not define the term ''foreseeable future,'' which appears in the statutory definition of ''threatened species.'' Our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis. The term foreseeable future extends only so far into the future as we can reasonably determine that both the future threats and the species' responses to those threats are likely. In other words, the foreseeable future is the period of time in which we can make reliable predictions. ''Reliable'' does not mean ''certain''; it means sufficient to provide a reasonable degree of confidence in the prediction. Thus, a prediction is reliable if it is reasonable to depend on it when making decisions.

It is not always possible or necessary to define foreseeable future as a particular number of years. Analysis of the foreseeable future uses the best scientific and commercial data available and should consider the timeframes applicable to the relevant threats and to the species' likely responses to those threats in view of its life-history characteristics. Data that are typically relevant to assessing the species' biological response include species-specific factors such as lifespan, reproductive rates or productivity, certain behaviors, and other demographic factors.

We consider 50 years to be the foreseeable future within which we can reasonably determine the threats, the magnitude of those threats, and the species' response to those threats. The foreseeable future for the individual factors and threats vary. However, based on the available information from ongoing monitoring of populations known at the time of listing, it is estimated that under natural conditions, individuals of palo de rosa may require at least 40 years to reach a reproductive size, and the reproductive ecology of palo de rosa is consistent with late successional species. Within 50 years, an individual plant of palo de rosa would reach a reproductive size and effectively contribute to the next generation. Therefore, this timeframe accounts for maturation, the probability of flowering, effective cross-pollination, setting viable fruits, seed germination, and early seedling survival and establishment, taking into account environmental stochastic events such as drought periods. Some palo de rosa life stages are more sensitive to a particular threat (*e.g.,* seedling and sapling susceptibility to drought conditions); therefore, the species' response to threats in all life stages and the effects of these responses can be reasonably determined within the foreseeable future (50 years). We can also reasonably predict development and habitat fragmentation and modification within this timeframe based on current trends. Furthermore, the established timeframe for the foreseeable future provides for the design and implementation of conservation strategies to protect and enhance currently known populations.

In terms of climate, we recognize that modelled projections for Puerto Rico are characterized by some divergence and uncertainty later in the century (Khalyani *et al.* 2016, p. 275). However, we have reasonable confidence in projections within a 50-year timeframe representing the foreseeable future for palo de rosa because uncertainty is reduced within this timeframe. We assessed the climate changes expected in the year 2070 and determined that

downscaled future climate change scenarios indicate that Puerto Rico is predicted to experience changes in climate that will affect palo de rosa (Khalyani *et al.* 2016, entire). Thus, using a 50-year timeframe for the foreseeable future allows us to account for the effects of projected changes in temperature, the shifting of life zones, and an increase in droughts in the habitat.

Analytical Framework

The 5-year review (USFWS 2017, entire) documents the results of our comprehensive biological status review for the species, including an assessment of the potential threats to the species. The following is a summary of the key results and conclusions from the 5-year review and the best available information gathered since that time. The 5-year review can be found at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2020–0059.

Summary of Biological Status and Threats

Below, we review the biological condition of the species and its resources, and the threats that influence the species' current and future condition, in order to assess the species' overall viability and the risks to that viability.

Habitat Destruction and Modification

Habitat destruction and modification, including forest management practices, were identified as factors affecting the continued existence of palo de rosa when it was listed in 1990 (55 FR 13488; April 10, 1990). At present, forest management practices within Commonwealth forests are not considered a threat to palo de rosa because of existing regulatory mechanisms and lack of evidence of direct impacts to the species due to forest management practices. For example, although there is evidence of palo de rosa individuals with multiple stems due to historical deforestation and harvesting for charcoal production in the GCF, selective harvesting and deforestation is no longer a threat to the GCF population. Similar to the GCF, the palo de rosa SCF population (*i.e.,* Quebrada Peces, Quebrada Grande, and Río Loco subpopulations) is also entirely under conservation, and we have no evidence of adverse impacts to the species due to forest management practices.

However, that is not necessarily the case on private lands; the subpopulations of Montes de Barinas and Guayanilla-CORCO remain vulnerable to deforestation and habitat modification. In Montes de Barinas, palo de rosa occurs on private properties subject to urban development, resulting in encroachment of native dry forest areas, and thus in the isolation of palo de rosa (see 79 FR 53307, September 9, 2014, with reference to threats in the same area). These areas also are threatened by deforestation for cattle grazing and the extraction of timber for fence posts (Román-Guzman 2006, p. 40; see 79 FR 53307, September 9, 2014). In fact, active extraction of timber for fence posts has been reported adjacent to the Montes de Barinas subpopulation and on a neighboring property with other endemic species, with palo de rosa individuals in the Montes de Barinas population likely to be cut if harvesting continued (Monsegur-Rivera 2003–2006, pers. obs.; Morales 2011, pers. comm.). In addition, the area of Montes de Barinas showed evidence of bulldozing and subdivision for urban development (Román-Guzman 2006, p. 40).

The habitat at the Guayanilla-CORCO population is impacted on a regular basis by the Puerto Rico Energy and Power Authority (PREPA) for the maintenance of power lines and associated rights-of-way (USFWS 2017, p. 16). Impacts to the species' habitat have been reported in that area as a result of construction of access roads to PREPA towers (Monsegur-Rivera 2014–2020, pers. obs.). Such habitat disturbance and modification affect the integrity of palo de rosa habitat and likely results in direct and indirect impacts to individuals. In fact, some access roads go through drainages that provide good habitat for palo de rosa and could affect microhabitat conditions necessary for seedling germination and recruitment. In addition, these dirt access roads provide corridors for the establishment of exotic plant species like guinea grass (*Megathyrsus maximus)* and zarcilla (*Leucaena leucocephala*), which outcompete the native vegetation (including palo de rosa) and promote favorable conditions for human-induced fires (USFWS 2017, p. 16). Moreover, these dirt roads are used to access the forested habitat for harvesting of timber for fence posts (Monsegur-Rivera 2014, pers. obs.). Similarly, the habitat in the municipalities of Peñuelas and Ponce (*i.e.,* Punta Cucharas) near the Guayanilla-Peñuelas population has been severely fragmented by urban development (*e.g.,* housing development, hotels, a jail, a landfill, rock quarries, and highway PR–2) (see 79 FR 53307, September 9, 2014), and due to maintenance of PREPA power lines (Monsegur-Rivera 2020, pers. obs.).

In Sierra Bermeja and Cerro las Mesas, private forested lands also have been impacted through deforestation, mainly for agricultural practices (*i.e.,* grazing by cattle and goats, and associated conversion of forested habitat to grasslands) and some urban development (*i.e.,* construction of houses and roads) (Cedeño-Maldonado and Breckon 1996, p. 349; USFWS 1998, p. 6; Envirosurvey, Inc. 2016, p. 6). Most of the Sierra Bermeja mountain range was zoned with specific restrictions on development activities to protect the natural resources of the area (JPPR 2009, pp. 151–153). This zoning allows for agricultural activities and construction of residential homes with the implementation of best management practices and some limitations (JPPR 2009, p. 151; JPPR 2015, pp. 118–129). Nonetheless, landowners continue impacting the habitat through activities like cutting new access roads on their properties and conversion of forested land to pasture (Pacheco and Monsegur-Rivera 2017, pers. obs.). The palo de rosa population in Sierra Bermeja is limited to two isolated individuals on protected lands (LCNWR and PLN conservation easement), with no evidence of natural recruitment. Similarly, the other two palo de rosa individuals in Guaniquilla-Buye, also in southwest Puerto Rico, are found within private lands subject to urban and tourist development, although these plants are not yet impacted.

Core subpopulations of palo de rosa occur in the northern karst belt of Puerto Rico (Lugo *et al.* 2001, p. 1), where approximately 80 percent of the known sites for palo de rosa occur on private lands not managed for conservation. These private lands are encroached upon by development and subject to habitat modification activities (*e.g.,* urban development) detrimental to palo de rosa. The palo de rosa subpopulation at GuCF is the westernmost record of the species in northern Puerto Rico that lies within an area managed for conservation. As previously discussed, the GuCF subpopulations extend to private lands along the Guajataca Gorge. Although the steep terrain and low agricultural value of this area has protected the subpopulations from habitat modification, some remain vulnerable to infrastructure development (*e.g.,* possible expansion of Highway PR–22 between the municipalities of Hatillo and Aguadilla). For example, three previously unknown subpopulations (including one showing recruitment) were located during the biological

assessments for the proposed expansion of Highway PR–22 (PRHTA 2007, p. 19).

Another subpopulation vulnerable to habitat modification is the Merendero-Guajataca; this area is managed for recreation, and the habitat remains threatened by vegetation management activities (*e.g.,* maintenance of green areas and vegetation clearing along trails). Habitat modification can also have implications beyond the direct impacts to a subpopulation. Although the palo de rosa in the Merendero-Guajataca subpopulation have produced flowers, there are no records of fruit production or seedlings (Monsegur-Rivera 2009–present, pers. obs.); this is likely due to habitat modification at the site. Nonetheless, this subpopulation may interact through cross-pollination with the nearby El Túnel-Guajataca subpopulation and, thus, contribute to observed recruitment in other Guajataca Gorge subpopulations. A palo de rosa subpopulation was located during a biological assessment for the proposed expansion of an existing quarry adjacent to the Río Camuy (Sustache-Sustache 2010, p. 7). We expect impacts to this subpopulation from the quarry activities will interfere with the natural recruitment of the species along the Río Camuy.

Habitat encroachment is evident on private lands surrounding the CCF, Hacienda La Esperanza Natural Reserve, and Tortuguero Lagoon Natural Preserve, where at least six known subpopulations occur within private lands adjacent to areas subject to development or infrastructure projects. The subpopulations at Hacienda Esperanza extend to private lands on their southern boundary, where development projects have been proposed (*e.g.,* Ciudad Médica del Caribe; PRDNER 2011, pp. 24–25). Habitat modification in those areas can result in direct impacts to palo de rosa individuals and can interrupt the connectivity between subpopulations (*e.g.,* cross-pollination). In addition, the analysis of aerial images indicates four additional subpopulations occurring on private lands in the proximity of Hacienda Esperanza are encroached upon by urban development, rock quarries, and agricultural areas (Monsegur-Rivera 2018, pers. obs.).

The palo de rosa subpopulations at Hacienda Sabanera in Dorado have been encroached upon by development. We prepared a biological opinion during the consultation process for the construction of Hacienda Sabanera and its associated impacts on palo de rosa (USFWS 1999, entire). The biological opinion indicates that approximately 83 of the 200 acres (including forested *mogote* habitat) would be impacted, and 6 adults, 12 saplings, and 35 seedlings of palo de rosa would be directly affected by the proposed project (USFWS 1999, p. 6). Although we concluded that the project would not jeopardize the continued existence of palo de rosa (USFWS 1999, p. 7), the project resulted in substantial loss of forested habitat, promoting edge habitat favorable for intrusion of weedy species. In addition, a series of *mogotes* along Higuillar Avenue, south of Hacienda Sabanera, are expected to be impacted by proposed road construction (PRDNER 2013, pp. 22–24), and we have no information that plans for the road have been discarded. Encroachment conditions similar to those in Hacienda Sabanera also occur in the areas of La Virgencita (north and south), Mogotes de Nevares, Sabana Seca, Parque de las Ciencias, Parque Monagas, and Fort Buchanan. For example, at La Virgencita, the population of palo de rosa is bisected by Highway PR–2 and could be further impacted if the road is widened in the future. Landslides have occurred in this area in the past and road maintenance in this vulnerable area may trigger slide events (PRDNER 2015, pp. 13–15). In addition, palo de rosa individuals are found within the PREPA power line rights-of-way (Power Line 41500), and there is evidence the overall decrease or absence of saplings or juveniles in the La Virgencita south population may be the result of habitat modification and resulting edge habitat due to the maintenance of the PREPA power line rights-of-way (PRDNER 2015, pp. 13–15; USFWS 2018, p. 33). In addition, the westernmost subpopulation of palo de rosa occurs in the municipality of Aguadilla in an area identified by the Puerto Rico Highway and Transportation Authority (PRHTA) as part of the proposed expansion of highway PR–22 (USFWS 2017, p. 7).

The Mogotes de Nevares, Sabana Seca, Parque de las Ciencias, Parque Monagas, and Fort Buchanan subpopulations are also severely fragmented by urban development and a rock quarry (USFWS 2017, p. 12). Such fragmentation compromises the connectivity between subpopulations. Some of these areas are vulnerable to landslides due to changes in the contour of the terrain associated with a high density of urban development, encroachment, and quarry operations (*e.g.,* Parque Monagas and Fort Buchanan) (U.S. Army 2014, p. 3). Although Fort Buchanan habitat is set aside for conservation, landslides have occurred within and near Fort Buchanan and the subpopulation remains threatened due to potential landslides. Fort Buchanan is evaluating a possible slope stabilization project for the site (U.S. Army 2014, pp. 4, 9–11).

Palo de rosa occurs within several National Parks on Hispaniola (Dominican Republic and Haiti) (*e.g.,* Parque Nacional del Este, Parque Nacional Los Haitises, and Parque Nacional Sierra de Bahoruco). Despite the occurrence of the species within areas managed for conservation (*e.g.,* Parque del Este and Sierra de Bahoruco), these areas continue to be affected by illegal deforestation for agriculture and charcoal production, and enforcement of existing regulations is limited (Jiménez 2019, pers. comm.). The dependence of the human population of Haiti on wood-based cooking fuels (*e.g.,* charcoal and firewood) has resulted in substantial deforestation and forest conversion to marginal habitat in both Haiti and adjacent regions of the Dominican Republic (*e.g.,* Sierra de Bahoruco), and the expected increases in the human population in Haiti will result in an increase in the demand for such fuel resources (USFWS 2018, p. 4). In fact, there has recently been increasing amounts of deforestation and habitat degradation in the Sierra de Bahoruco and the surrounding region (Grupo Jaragua 2011, entire; Goetz et al. 2012, p. 5; Simons et al. 2013, p. 31). In 2013, an estimated 80 square kilometers (19,768.4 acres) of forest in the area was lost primarily due to illegal clearing of forested habitat for agricultural activities (Gallagher 2015, entire). Vast areas (including suitable habitat for palo de rosa) along the border between Haiti and Dominican Republic (including within National Parks) are being cleared and converted to avocado plantations (Monsegur-Rivera 2017, pers. obs.). Such deforestation extends to other National Parks, such as Parque Nacional del Este and Isla Saona, where illegal vegetation clearing for agriculture and tourism development continue to occur (Monsegur-Rivera 2011, pers. obs.). For example, analysis of aerial images from Isla Saona (Parque Nacional del Este) show extensive deforestation and conversion of forested habitat to agricultural lands during the last decade (Monsegur-Rivera 2019, pers. obs.). Impacts to palo de rosa populations due to development and habitat destruction and modification in Hispaniola are not described in the final listing rule for the species (55 FR 13488; April 10, 1990), but current information indicates that palo de rosa and its habitat are being affected by deforestation for agricultural practices and extraction for fuel

resources. To summarize, forest management practices within Commonwealth Forests are no longer considered a threat to palo de rosa. The palo de rosa populations at the CCF, GCF, GuCF, RACF, and SCF are protected, as these forest reserves are protected by Commonwealth laws and managed for conservation. Nonetheless, populations extending onto private lands in southern Puerto Rico are vulnerable to impacts from urban development, agricultural practices (*e.g.,* harvesting fence posts), and maintenance of power lines and rights-of-way (Monsegur-Rivera 2019, pers. obs.). In addition, the majority of the subpopulations along the northern karst of Puerto Rico occur on private lands, where habitat encroachment occurs and creates edge habitat conditions (habitat intrusion by exotics that precludes seedling establishment) and affects connectivity and natural recruitment. For example, despite the abundance of individuals at the palo de rosa subpopulation adjacent to the former CORCO in Guayanilla-Peñuelas, recruitment is limited due to the multiple stressors, including maintenance of power line rights-of-way, fence post harvest, and intrusion of exotic plants species, as well as the changes in microhabitat conditions at these sites, which preclude seedling establishment. Furthermore, habitat fragmentation along the northern coast may affect cross-pollination among subpopulations, resulting in the lack of fruit production at isolated subpopulations with a smaller number of individuals (*e.g.,* Merendero-Guajataca).

Conservation Efforts and Regulatory Mechanisms

In the final listing rule (55 FR 13488; April 10, 1990), we identified the inadequacy of existing regulatory mechanisms as one of the factors affecting the continued existence of palo de rosa. At that time, the species had no legal protection, because it had not been included in Puerto Rico's list of protected species. Once palo de rosa was federally listed, legal protection was extended by virtue of an existing cooperative agreement (under section 6 of the Act) with the Commonwealth of Puerto Rico. Federal listing assured the addition of palo de rosa to the Commonwealth's list of protected species, and the Commonwealth designated palo de rosa as endangered in 2004 (DRNA 2004, p. 52).

In 1999, the Commonwealth of Puerto Rico approved Law No. 241, also known as the New Wildlife Law of Puerto Rico (*Nueva Ley de Vida Silvestre de Puerto Rico*), and palo de rosa is legally protected under this law. The purpose of this law is to protect, conserve, and enhance both native and migratory wildlife species, and to declare as property of Puerto Rico all wildlife species within its jurisdiction, to regulate permits, to regulate hunting activities, and to regulate exotic species, among other activities. This law also has provisions to protect habitat for all wildlife species, including plants. In 2004, the PRDNER approved Regulation 6766 or Regulations to Govern the Management of Species Vulnerable and Danger of Extinction in the Commonwealth of Puerto Rico (*Reglamento para Regir el Manejo de las Especies Vulnerables y en Peligro de Extinción en el Estado Libre Asociado de Puerto Rico*). Article 2.06 of Regulation 6766 prohibits, among other activities, collecting, cutting, and removing of listed plant individuals within the jurisdiction of Puerto Rico (DRNA 2004, p. 11). The provisions of Law No. 241–1999 and Regulation 6766 extend to private lands. However, the protection of listed species on private lands is challenging, as landowners may be unaware that species are protected and may damage those species (*e.g.,* by cutting, pruning, or mowing) (USFWS 2017, p. 23), which might be the case if palo de rosa is cut for fence posts.

Commonwealth of Puerto Rico Law No. 133 (1975, as amended in 2000), also known as Puerto Rico Forests' Law (*Ley de Bosques de Puerto Rico*), protects the areas of the GCF, SCF, GuCF, RACF, and CCF, and, by extension, the palo de rosa individuals on them. Section 8(a) of this law prohibits cutting, killing, destroying, uprooting, extracting, or in any way hurting any tree or vegetation within a Commonwealth forest. The PRDNER also identified these Commonwealth forests as ''critical wildlife areas.'' This designation constitutes a special recognition with the purpose of providing information to Commonwealth and Federal agencies about the conservation needs of these areas, and to assist permitting agencies in precluding adverse impacts as a result of project endorsements or permit approvals (PRDNER 2005, pp. 211–216). In addition, Commonwealth of Puerto Rico Law No. 292 (1999), also known as Puerto Rico Karst Physiographic Protection and Conservation Law (*Ley para la Protección y Conservación de la Fisiografía Cársica de Puerto Rico*), regulates the extraction of rock and gravel for commercial purposes, and prohibits the cutting of native and endemic vegetation in violation of other laws (*e.g.,* Law No. 241–1999 and Regulation 6766). Law No. 292–1999 applies to karst habitat in both southern and northern Puerto Rico.

On the LCNWR, habitat is managed in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee, as amended by the National Wildlife Refuge System Improvement Act of 1997 [Improvement Act]), and collection of plants within refuge lands is prohibited by title 50 of the Code of Federal Regulations (CFR) at § 27.51. The LCNWR has a comprehensive conservation plan that includes measures for the protection and recovery of endangered and threatened plant species (USFWS 2011a, p. 35). Furthermore, the Puerto Rico Planning Board (Junta de Planificación de Puerto Rico) classified most of the mountain range of Sierra Bermeja as a District of Conservation of Resources (Distrito de Conservación de Suelos) (JPPR 2009, p. 151). This conservation category identifies lands with particular characteristics that need to be maintained or enhanced (*e.g.,* provide habitat for species of concern), and establishes specific restrictions for development (JPPR 2009, p. 151). Also, in 2015, the Puerto Rico Planning Board approved the Land Use Plan for Puerto Rico, and categorized most of the Sierra Bermeja Mountains, including the LCNWR, as Rustic Soil Specially Protected (Suelo Rustico Especialmente Protegido) where no urban development is considered due to location, topography, aesthetic value, archaeological value, or ecological value of land (Puerto Rico Planning Board Interactive Map 2020).

The palo de rosa individuals found at Hacienda La Esperanza Natural Reserve are protected, as this reserve also is managed for conservation by PLN, and the management plan considers palo de rosa in its activities (PLN 2011a, p. 67). The PLN also manages the Río Encantado Natural Protected Area, a mosaic of at least 1,818 ac (736 ha) of forested habitat (including extensive areas of suitable habitat for palo de rosa) in the municipalities of Florida, Manatí, and Ciales, and PLN plans to continue acquiring habitat at this geographical area (PLN 2011b, p. 5). Also, palo de rosa is protected and managed under an MOU among the U.S. Army Garrison, Fort Buchanan, the Service, and PRDNER (U.S. Army, Fort Buchanan 2015, entire). This palo de rosa subpopulation is found in a *mogote* designated for conservation (USACE 2014, p. 3).

In addition, the private natural reserves of El Tallonal and Mata de

Plátano, which contain subpopulations of palo de rosa in the municipality of Arecibo, are protected from habitat modification and have approved private forest stewardship management plans that include measures for the protection of listed species within the properties (PRDNER 2005, 47 pp.). We have an extended history of collaboration with these two reserves, providing financial and technical assistance for the implementation of recovery actions to benefit listed species.

In addition to protections provided by the Act, the species is protected from collection and provided management considerations by the Improvement Act within one national wildlife refuge (LCNWR). In addition, the Commonwealth of Puerto Rico legally protects palo de rosa, including protections to its habitat, through Commonwealth Law No. 241–1999 and Regulation 6766, which prohibit, among other actions, collecting, cutting, and removing listed plants. If we downlist this species, we do not expect this species to be removed from legal protection by the Commonwealth. Although these protections extend to both public and private lands, as discussed above, protection of this species on private land is challenging. Habitat that occurs on private land is subject to pressures from agricultural practices (*e.g.,* grazing, harvesting fence posts) and development. Accidental damage or extirpation of individuals has occurred because private landowners or other parties on the property may not be able to identify the species or may not be aware that palo de rosa is a protected species. Habitat modifications and fragmentation continue to occur on private lands, which can increase the likelihood of habitat intrusion by exotic plants and human-induced fires and reduce connectivity between populations and the availability of suitable habitat for the species' recruitment. In short, this plant is now more abundant and widely distributed, including within conservation land, so the threat due to inadequacy of regulatory mechanisms has been reduced. However, the occurrences of palo de rosa on private lands continue to need enforcement of existing prohibitions, as well as increased attention and associated outreach to highlight the species' conservation and importance.

Recruitment

Here, we summarize the continuing threat of low recruitment on palo de rosa populations, and we describe this influence on palo de rosa viability in greater detail under *Recruitment and Population Structure,* above. Characteristics of palo de rosa's life history may contribute to the slow or lack of recruitment observed in current subpopulations (Monsegur-Rivera 2018, pers. obs.). Individual palo de rosa trees grow extremely slowly, and the growth of the saplings is also quite slow, with an estimated height of less than 1 m (3.3 ft) after 20 years of growth. It is estimated that, under natural conditions, individuals of palo de rosa may require at least 40 years to reach a reproductive size. In addition, seeds of this species are not dispersed by any discernible method other than gravity and concentrate under the parental tree. Thus, recruitment is limited to the proximity of the parental tree, limiting the species' potential to colonize further suitable habitat, and limiting the survival of clustered seedlings due to closed canopy conditions and competition with the parental tree.

Population dynamics and survey assessments support the conclusion that palo de rosa is a late successional species, whose saplings may remain dormant under closed canopy conditions, until there is some natural disturbance that provides favorable conditions for the development of the saplings. Thus, the species requires an open canopy to promote seedling growth and is adapted to natural disturbances such as hurricanes (Breckon and Kolterman 1996). Under this scenario, the natural populations show a slow natural recruitment that requires stable habitat conditions with a regime of natural disturbance (*i.e.,* tropical storms or hurricanes).

Reproductive events (*i.e.,* flowering and fruiting) have been associated with larger, more mature trees (Breckon and Kolterman 1992, p. 8; USFWS 2009, p. 4). Cross-pollination between or among subpopulations maximizes the likelihood of fruit production and contributes to recruitment, which underscores the importance of conserving the species through a landscape approach to promote natural recruitment. Although current information on population structure indicates the species requires some open canopy areas to promote recruitment, widespread deforestation fragments habitat and creates edges (habitat transition zones).

There is no evidence of natural recruitment at this time for 40 of the 66 known subpopulations, although the species' life history implies that recruitment may still occur in these populations when a canopy opening is created and suitable conditions for recruitment are present. Forest cover in Puerto Rico has increased since the widespread deforestation in the 1930s (Marcano-Vega *et al.* 2015, p. 67), but the species was likely more widespread prior to deforestation and habitat fragmentation. A life history requirement for a closed canopy forest for adult individuals with canopy openings to promote seedling and sapling recruitment was likely more sustainable in populations with greater abundance and distribution than the species currently exhibits. Smaller and more isolated subpopulations are less able to provide closed canopy conditions with small pockets of openings; thus, inherent palo de rosa life history characteristics have an effect on recruitment, and this effect is expected to continue in the future.

Hurricanes and Related Threats

At the time of listing, we considered individuals of palo de rosa vulnerable to flash flood events (see 55 FR 13490, April 10, 1990). Flash floods remain a moderate threat and may compromise the natural recruitment of seedlings, particularly on subpopulations along the southern coast of Puerto Rico where the species occurs at the bottom of drainages (USFWS 2017, p. 17). Below, we describe these threats and other natural and human-caused factors affecting the continued existence of palo de rosa.

As an endemic species to the Caribbean, palo de rosa is expected to be well adapted to tropical storms and associated disturbances such as flash floods. Under natural conditions, healthy populations with robust numbers of individuals and recruitment should withstand tropical storms, and these weather and climatic events may be beneficial for the population dynamics of palo de rosa by creating small openings in the closed canopy to allow seedling and sapling growth. The islands of the Caribbean are frequently affected by hurricanes. Puerto Rico has been directly affected by four major hurricanes since 1989. Successional responses to hurricanes can influence the structure and composition of plant communities in the Caribbean islands (Lugo 2000, p. 245; Van Bloem *et al.* 2003, p. 137; Van Bloem *et al.* 2005, p. 572; Van Bloem *et al.* 2006, p. 517). Examples of the visible effects of hurricanes on the ecosystem includes massive defoliation, snapped and wind-thrown trees, large debris accumulations, landslides, debris flows, and altered stream channels, among others (Lugo 2008, p. 368). Hurricanes can produce sudden and massive tree mortality, which varies among species but averages about 41.5 percent (Lugo 2000, p. 245). Hence, small populations

of palo de rosa may be severely impacted by hurricanes, resulting in loss of individuals or extirpation. The impact of catastrophic hurricanes is exacerbated in small populations.

There is evidence of damage to individuals of palo de rosa due to previous hurricane events (*e.g.,* Hurricane Georges in 1998) at the Hacienda Sabanera and Hacienda Esperanza subpopulations (USFWS 2017, p. 17). A post-hurricane assessment of selected populations of palo de rosa was conducted to address the impact of Hurricane María (USFWS 2018, entire). Even though Hurricane María did not directly hit the GCF, evidence of damage to palo de rosa trees was recorded at Cañon Las Trichilias (*e.g.,* uprooted trees and main trunk broken) (USFWS 2018, p. 3). Additional evidence of direct impacts (including mortality) due to Hurricane María were recorded in the Hacienda Esperanza, Hacienda Sabanera, Parque Monagas, and La Virgencita subpopulations (USFWS 2018, entire). An analysis of high-resolution aerial images from these sites following Hurricane María shows extensive damage and modification to the forest structure, with subpopulations in southern Puerto Rico exposed to less wind damage (Hu and Smith 2018, pp. 1, 17). When comparing affected subpopulation abundance, the evidence of direct impacts to individuals of palo de rosa due to Hurricane María appear to be discountable. However, this post-hurricane assessment focused on previously surveyed robust subpopulations (USFWS 2018, entire). Overall, the subpopulations along the northern coast of Puerto Rico suffered severe defoliation, with trees showing mortality of the crown apex, but some trees showing regrowth 6 months post-hurricane (USFWS 2018, entire).

However, hurricane damage extends beyond the direct impacts to individual palo de rosa trees. As mentioned above, the subpopulations along the northern coast of Puerto Rico are severely fragmented due to prior land-use history. Disturbance and edge effects associated with urban development and infrastructure corridors may promote the establishment and spread of invasive, nonnative plant species, and lianas (woody vines) typical of early or intermediate successional stages, which may result in rare and endemic plant species being outcompeted (Hansen and Clevenger 2005, p. 249; Madeira *et al.* 2009, p. 291). Hurricanes may not introduce nonnative species to the forest structure, but they can promote favorable conditions for these species and therefore increase the relative abundance of nonnatives.

Habitat intrusion by exotics is positively correlated to the distance of the disturbance gap (Hansen and Clevenger 2005, p. 249). Thus, the adverse effects from human-induced habitat disturbance (*e.g.,* deforestation and urban development) can be exacerbated by hurricanes by creating or increasing this disturbance gap. A post-hurricane assessment provided evidence that all palo de rosa subpopulations along the north coast of Puerto Rico showed habitat intrusion by weedy vines (*e.g., Dioscorea alata* (ñame), *Thunbergia grandiflora* (pompeya), *Cissus erosa* (caro de tres hojas), and *Cayaponia americana* (bejuco de torero)) following Hurricane María (USFWS 2018, entire). In the same assessment, weedy vegetation and vines densely covered an area in the Hacienda Esperanza subpopulation, where palo de rosa occurs at a low-elevation *mogote,* and Hacienda Sabanera, where the habitat that harbors the palo de rosa population was cut to the edge of the population of the species due to urban development (USFWS 2018, pp. 8–18). Examination of aerial images of the habitat shows a flattened forest structure indicative of hurricane damage, with standing trees missing main branches and canopy. Competition with nonnative species and weedy vines for necessary resources (space, light, water, nutrients) may reduce the natural recruitment by inhibiting germination and outcompeting seedlings of native species (Rojas-Sandoval and Meléndez-Ackerman 2013, p. 11; Thomson 2005, p. 615). Palo de rosa seedlings at Hacienda Esperanza were covered (and outcompeted) by weedy vines following Hurricane María (USFWS 2018, p. 8). At Fort Buchanan, 6 months after Hurricane María, the vegetation at the base of the *mogote* on that property was overgrown and dominated by weedy species. However, weedy vegetation had not reached palo de rosa individuals at the top of the *mogote,* and there was little evidence of adverse impacts to seedlings and saplings due to competition with exotics (USFWS 2018, p. 8).

The GCF subpopulations of palo de rosa are surrounded by a large tract of intact native forest, providing a buffer zone that precludes habitat invasion by exotics. Despite the overall evidence of canopy opening and some impacts to individuals of palo de rosa due to Hurricane María, there was no evidence of habitat intrusion by exotics at Cañon Las Trichilias and Cañon Hoya Honda (USFWS 2018 pp. 3–8), which highlights the importance of maintaining native forested habitat that provides a buffer for palo de rosa subpopulations.

The above discussion indicates that the potential adverse impacts due to hurricanes and the associated habitat intrusion by exotic plant species are variable, depending on habitat fragmentation, topography, distance to disturbance, and the size of the subpopulation. It further highlights the importance of having healthy populations with robust numbers of individuals and a stratified population structure (*i.e.,* seedlings, saplings, and adults) to allow for recovery following hurricanes and associated habitat disturbance.

Climate Change

Regarding the effects of climate change, the Intergovernmental Panel on Climate Change (IPCC) concluded that warming of the climate system is unequivocal (IPCC 2014, p. 3). Observed effects associated with climate change include widespread changes in precipitation amounts and aspects of extreme weather including droughts, heavy precipitation, heat waves, and the intensity of tropical cyclones (IPCC 2014, p. 4). Rather than assessing climate change as a single threat in and of itself, we examined the potential effects to the species and its habitat that arise from changes in environmental conditions associated with various aspects of climate change.

We examined a downscaled model for Puerto Rico based on three IPCC global emissions scenarios from the CMIP3 data set—mid-high (A2), mid-low (A1B), and low (B1)—as the CMIP5 data set was not available for Puerto Rico at that time (Khalyani et al. 2016, pp. 267, 279–280). These scenarios are generally comparable and span the more recent representative concentration pathways (RCP) scenarios from RCP 4.5 (B1) to RCP 8.5 (A2) (IPCC 2014, p. 57). The B1 and A2 scenarios encompass the projections and effects of the A1B scenario; we will describe our analyses for the B1 (RCP 4.5) and A2 (RCP 8.5) scenarios and recognize the A1B (RCP 6.0) projections and effects fall into this range.

The modelling of climate projections expected in Puerto Rico used in our analysis extends to 2100. We acknowledge inherent divergence in climate projections based on the model chosen, with uncertainty increasing later in the century (Khalyani et al. 2016, p. 275). However, we assessed the climate changes expected in the year 2070, a 50-year timeframe representing the foreseeable future for palo de rosa (as described in *Regulatory Framework,*

above). Under the RCP 4.5 and 8.5 scenarios, precipitation declines while temperature and total dry days increase, resulting in extreme drought conditions that would result in the conversion of subtropical dry forest into dry and very dry forest (Khalyani et al. 2016, p. 280). Downscaled future climate change scenarios indicate that by 2070, Puerto Rico is predicted to experience a decrease in rainfall, along with increased drought intensity under RCP 4.5 and 8.5 (Khalyani *et al.* 2016, p. 265; Bhardwaj *et al.* 2018, p. 133; U.S. Global Change Research Program (USGCRP) 2018, 20:820). The western region of Puerto Rico has already experienced negative trends in annual rainfall (PRCC 2013, p. 7). Temperatures are also expected to rise between 2020 and 2070. Under RCP 4.5, a mean temperature increase of 4.6–5.4 degrees Celsius (°C) (40.3–41.7 degrees Fahrenheit (°F)) is projected, and an increase of 7.5–9 °C (45.5–48.2 °F) is projected under RCP 8.5 (Khalyani et al. 2016, p. 275). As precipitation decreases influenced by warming, it will tend to accelerate the hydrological cycles, resulting in wet and dry extremes (Jennings *et al.* 2014, p. 4; Cashman et al. 2010, p. 1). Downscaled general circulation models predict dramatic shifts in the life zones of Puerto Rico with potential loss of subtropical rain, moist, and wet forests, and the appearance of tropical dry and very dry forests are anticipated under both RCP 4.5 and 8.5 scenarios (Khalyani *et al.* 2016, p. 275). Nonetheless, such predicted changes in life zones may not severely affect palo de rosa due to its distribution throughout Puerto Rico, which includes different life zones and habitat types.

Vulnerability to climate change impacts is a function of sensitivity to those changes, exposure to those changes, and adaptive capacity (IPCC 2007, p. 89; Glick and Stein 2010, p. 19). As described earlier, palo de rosa is a species with low recruitment and seed dispersal limited to gravity, limiting its potential to reach areas with suitable microhabitat conditions for its establishment. Despite the evidence of multiple reproductive events (fruit production) in one subpopulation, low recruitment of saplings and a population structure dominated by adult trees could be the result of mortality and thinning of individuals at the seedling stage due to drought stress. The projected prolonged droughts expected with climate change may affect the phenology of palo de rosa, resulting in the loss of developing flowers and fruits, or reduce the viability of the few produced seeds, reducing the likelihood of natural recruitment. In addition, hurricanes followed by extended periods of drought caused by climate change may result in microclimate alterations that could allow other plants (native or nonnative) to become established and become invasive (Lugo 2000, p. 246), which would preclude the recruitment of palo rosa seedlings.

Based the distribution of palo de rosa and its habitat, we have determined that conditions associated with climate change could impact this species. Climate change is almost certain to affect terrestrial habitats and palo de rosa; however, the future extent and timing of those effects beyond the foreseeable future is uncertain. Some terrestrial plant populations are able to adapt and respond to changing climatic conditions (Franks *et al.* 2013, entire), but the ability of palo de rosa to do so is unknown. A sound, long-term monitoring of known palo de rosa populations is needed to understand the effects on the species' viability.

In summary, other natural and manmade factors, such as hurricanes and related threats due to habitat fragmentation, edge habitat, habitat intrusion by exotic plant species, and the low recruitment and limited dispersal of palo de rosa, are current threats to the species. Hurricanes and post-hurricane habitat encroachment and nonnative plant invasion have affected subpopulations along the northern coast of Puerto Rico (USFWS 2018, entire). Invasive species can preclude the establishment of new palo de rosa individuals through competition for sunlight, nutrients, water, and space to grow. Although climate change is almost certain to affect terrestrial habitats, there is uncertainty about how predicted future changes in temperature, precipitation, and other factors will influence palo de rosa.

Small Population Size

At the time of listing (55 FR 13488; April 10, 1990), we considered small population size as a threat affecting the continued survival of palo de rosa, based on the species' limited distribution and low number of individuals (*i.e.,* only 9 individuals throughout the species' range in Puerto Rico). Based on this information, we considered the risk of extinction of palo de rosa very high. New distribution and abundance information available since the species was listed reflects that palo de rosa is more abundant and widely distributed than previously thought (USFWS 2017, entire); thus, we no longer consider limited distribution as an imminent threat to this species. However, at least 37 (56 percent) of the known subpopulations are composed of 10 or fewer individuals. The effect of small population size exacerbates other threats and makes these subpopulations vulnerable to extirpation by stochastic and catastrophic events.

Overall Summary of Factors Affecting the Species

We have carefully assessed the best scientific and commercial information available regarding the threats faced by palo de rosa in developing this proposed rule. Limited distribution and a low number of individuals were considered a threat to palo de rosa when we listed the species (55 FR 13488; April 10, 1990), but recent information indicates the species is more abundant and widely distributed than known at the time of listing. However, other threats are still affecting palo de rosa. Based on the analysis above, although we no longer consider limited distribution as an imminent threat to this species, we conclude that habitat destruction and modification on privately owned lands (particularly along the northern coast of Puerto Rico), and other natural or manmade factors (*e.g.,* hurricanes, habitat fragmentation resulting in lack of connectivity between individuals, and habitat encroachment by invasive species) have been greatly reduced but continue to threaten palo de rosa populations. In addition, low recruitment related to sporadic flowering and fruit production, and the slow growth of seedlings under close canopy conditions (*e.g.,* species reproductive biology and ecology), coupled with the threats discussed above, are expected to remain threats to palo de rosa. It is also expected that palo de rosa will be affected by climate change within the foreseeable future, particularly by generalized changes in precipitation and drought conditions. Climate change is expected to result in more intense hurricanes and extended periods of drought. Increased hurricanes are expected to cause direct mortality of adult trees downed due to high winds, whereas more intense drought conditions are expected to reduce the species' reproductive output (reduced flowering and fruiting events) and also preclude seedling and sapling recruitment. However, based on the best available data, we do not consider climate change to represent a current or an imminent threat to this species across its range.

Species viability, or the species' ability to sustain populations over time, is related to the species' ability to withstand catastrophic population- and species-level events (redundancy), to adapt to novel changes in its biological

and physical environment (representation), and to withstand environmental and demographic stochasticity and disturbances (resiliency). The viability of a species is also dependent on the likelihood of new stressors or continued threats, now and in the future, that act to reduce a species' redundancy, representation, and resiliency. A highly resilient palo de rosa population should be characterized by sufficient abundance and connectivity between reproductive individuals to allow for reproductive events and cross-pollination, an age class structure representative of recruitment greater than mortality, multiple subpopulations within the population, and the availability of high-quality habitat to allow for recruitment. High representation for the species is characterized by multiple populations occurring within a wide range of environmental conditions (*e.g.,* substrate and precipitation) that allow for sufficient genetic variability. Multiple resilient populations across the range of the species characterize high redundancy for palo de rosa.

We evaluated the biological status of palo de rosa both currently and into the future, considering the species' viability as characterized by its resiliency, redundancy, and representation. Based on the analysis of available herbarium specimens, we have determined the species' distribution and abundance was once more common and widespread, and was likely a dominant late successional species of coastal to middle elevation (500 m (1,640 ft)) habitats, and even extended to coastal valleys and sand dunes (see table, above) (Monsegur-Rivera 2019, pers. obs.). The current known palo de rosa subpopulations are remnants of the species' historical distribution, persisting on areas of low agricultural value (*e.g.,* top of the *mogotes*) that were affected by deforestation for charcoal production, as evidenced by individuals with multiple trunks of palo de rosa sprouting from the same base. Based on the available information on palo de rosa's natural distribution at the time of listing, and considering that 40 of the known 66 subpopulations currently show no recruitment and no subpopulations appear to be expanding due to natural dispersal, palo de rosa populations exhibit reduced resiliency. No subpopulations appear to be dispersing, and no populations are highly resilient. None of the currently known subpopulations of palo de rosa are considered a recent colonization event or natural expansion of the species within its habitat. The species persisted through the almost entire deforestation of Puerto Rico with less than 6 percent of remaining forested habitat across the island by the 1930s (Franco *et al.* 1997, p. 3), when the low elevation coastal valleys habitat of palo de rosa was extensively deforested for agricultural practices (*e.g.,* sugar cane and tobacco plantations). There are broad accounts regarding the extensive deforestation and habitat modification that occurred in Puerto Rico until the 1950s (Franco *et al.* 1997, p. 3), which resulted in changes in forest structure and diversity, pollinators' assemblages, seed dispersers, and the prevailing microhabitat conditions in which palo de rosa evolved. Despite the return from such deforestation, known subpopulations show a clustered and patchy distribution, and are characterized by a population structure dominated by adults. Moreover, the species faces a low recruitment rate and slow growth, resulting in few saplings reaching a reproductive size; in addition, the species shows minimal or no dispersal (limited to gravity). Based on our observations, it has taken about 60 years from the peak of deforestation (1930s) for palo de rosa to show some initial evidence of recruitment.

We consider that palo de rosa has limited redundancy, as it is known from multiple subpopulations (66) throughout its geographical range, representing 14 natural populations distributed throughout the southern and northern coasts of Puerto Rico. Nonetheless, about 37 (56 percent) of the known subpopulations are composed of 10 or fewer individuals and show little or no recruitment and, thus, reduced resiliency (see table, above). As described above, the species faces a low recruitment rate, slow growth and limited dispersal, and patchy and small subpopulations, resulting in an increased vulnerability to extirpation of these subpopulations. All these characteristics are limiting factors and make the species vulnerable to catastrophic and stochastic events, such as hurricanes and droughts, that can cause local extirpations. The best available information indicates that palo de rosa is not naturally expanding into or colonizing habitats outside the areas where it is known to occur.

In terms of the representation of palo de rosa, we have no data on its genetic variability. Although the species occurs in a wide range of habitats and environmental conditions, it has a fragmented distribution, scattered (sporadic) flowering events, and a low recruitment rate. Thus, little or no genetic exchange is thought to occur between extant subpopulations, likely resulting in outbreeding depression, which may explain the lack of effective reproduction and recruitment (Frankham *et al.* 2011, p. 466). The low recruitment rate results in little transfer of genetic variability into future generations, limits the expansion of the species outside its current locations, and limits its ability to adapt to changing environmental conditions. For example, the loss or reduction of connectivity between subpopulations in areas like Arecibo-Vega Baja, Dorado, La Virgencita, Mogotes de Nevares, and San Juan-Fajardo can be detrimental to the long-term viability of the species as it affects cross-pollination and, therefore, gene flow. In fact, the only populations that occur entirely within native forest areas managed for conservation are GCF and SCF. This continued protected habitat provides for an effective cross-pollination (gene flow) that can secure the long-term viability of the species. However, the overall representation of palo de rosa is reduced, as the GCF and SCF populations are restricted to the southern coast and the genetic representation of palo de rosa in the northern karst area, a different ecological environment, is vulnerable because that habitat is threatened by destruction or modification.

Determination of Palo de Rosa's Status

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species meets the definition of ''endangered species'' or ''threatened species.'' The Act defines an ''endangered species'' as a species that is in danger of extinction throughout all or a significant portion of its range, and a ''threatened species'' as a species that is likely to become an endangered within the foreseeable future throughout all or a significant portion of its range. For a more detailed discussion on the factors considered when determining whether a species meets the definition of an ''endangered species'' or a ''threatened species'' and our analysis on how we determine the foreseeable future in making these decisions, please see Regulatory and Analytical Framework, above.

Status Throughout All of Its Range

After evaluating threats to the species and assessing the cumulative effect of the threats under the section 4(a)(1) factors, we have determined that palo de rosa's current viability is higher than was known at the time of listing (population current estimate of 1,144 individuals in 66 subpopulations) based on the best available information.

Currently, the number of palo de rosa individuals has changed from 9 individuals in protected lands at the time of listing to 407 individuals (32 percent of subpopulations) currently occurring in areas managed for conservation (*e.g.,* Commonwealth Forest and Federal lands). Furthermore, 396 individuals (38 percent of subpopulations) occur in areas subject to little habitat modification due to the steep topography in the northern karst region of Puerto Rico. The remaining 30 percent of the subpopulations (containing approximately 341 individuals) occur within areas severely encroached and vulnerable to urban or infrastructure development. Nonetheless, habitat destruction and modification on privately owned lands (particularly along the northern coast of Puerto Rico) and other natural or manmade factors (such as hurricanes, habitat fragmentation, lack of connectivity between populations, habitat intrusion by invasive species, and the species' reproductive biology) continue to threaten the viability of palo de rosa. Although population numbers and abundance of palo de rosa have increased, and some identified threats have decreased, our analysis indicates that threats remain. Thus, after assessing the best available information, we conclude that palo de rosa no longer meets the Act's definition of an endangered species throughout all of its range. We therefore proceed with determining whether palo de rosa meets the Act's definition of a threatened species (*i.e.,* is likely to become endangered within the foreseeable future) throughout all of its range.

In terms of habitat destruction and modification, we can reasonably determine that 70 percent of subpopulations (71 percent of individuals) are not expected to be substantially affected by habitat destruction and modification in the foreseeable future. This majority occurs within protected lands managed for conservation (36 percent of the known individuals or 32 percent of subpopulations) or on private lands with low probability of modification due to steep topography (35 percent of the known individuals or 38 percent of subpopulations). However, for the 30 percent of subpopulations occurring in areas severely encroached and vulnerable to urban or infrastructure development now and into the future (30 percent of the known individuals), we are reasonably certain these subpopulations will continue to have a lower resiliency (due to reduced connectivity (cross-pollination) and lack of recruitment), and, in some cases, may experience the loss of individuals or subpopulations adjacent to critical infrastructure such as highways or other development within the foreseeable future (*e.g.,* Hacienda Sabanera, PR–2 and PR–22 maintenance and expansion, Islote Ward extirpation).

We have evidence that some populations are showing signs of reproduction and recruitment. However, due to the slow growth of the species it may take several decades to ensure these recruitment events effectively contribute to a population's resiliency (new individuals reach a reproductive size). Despite no longer considering limited distribution as an imminent threat to this species, we have identified factors associated with habitat modification and other natural or manmade factors that still have some impacts on palo de rosa and affect the species' viability and effective natural recruitment. The species still faces dispersal problems, and the recruitment is still limited to the proximity of parent trees; we have no evidence of a population of palo de rosa that is the result of a recent colonization event or a significant population expansion. This renders the known subpopulations vulnerable to adverse effects related to habitat fragmentation and lack of connectivity, which may preclude future recruitment and the population's resiliency.

In addition, despite the presence of regulations protecting the species both on public and private lands, the protection of palo de rosa on private lands remains challenging. Habitat modifications and fragmentation continue to occur on private lands, which can increase the likelihood of habitat intrusion by exotic plants and human-induced fires, and reduce connectivity between populations (affecting cross-pollinations) and the availability of suitable habitat for the natural recruitment of the species. Still, none of these is an imminent threat to the species at a magnitude such that the taxon warrants endangered status across its range. Thus, after assessing the best available information, we conclude that palo de rosa is not currently in danger of extinction, but it is likely to become in danger of extinction in the foreseeable future throughout all of its range.

Status Throughout a Significant Portion of Its Range

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so in the foreseeable future throughout all or a significant portion of its range. The court in *Center for Biological Diversity* v. *Everson,* 2020 WL 437289 (D.D.C. Jan. 28, 2020) (*Center for Biological Diversity*), vacated the aspect of the Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species'' and ''Threatened Species'' (79 FR 37578; July 1, 2014) that provided that the Services do not undertake an analysis of significant portions of a species' range if the species warrants listing as threatened throughout all of its range. Therefore, we proceed to evaluating whether the species is endangered in a significant portion of its range—that is, whether there is any portion of the species' range for which both (1) the portion is significant, and (2) the species is in danger of extinction in that portion. Depending on the case, it might be more efficient for us to address the ''significance'' question or the ''status'' question first. We can choose to address either question first. Regardless of which question we address first, if we reach a negative answer with respect to the first question that we address, we do not need to evaluate the other question for that portion of the species' range.

Following the court's holding in *Center for Biological Diversity,* we now consider whether there are any significant portions of the species' range where the species is in danger of extinction now (*i.e.,* endangered). In undertaking this analysis for palo de rosa, we choose to address the status question first—we consider information pertaining to the geographic distribution of both the species and the threats that the species faces to identify any portions of the range where the species is may be endangered. Kinds of threats and levels of threats are more likely to vary across a species' range if the species has a large range rather than a very small natural range, such as the palo de rosa. Species with limited ranges are more likely to experience the same kinds and generally the same levels of threats in all parts of their range.

For palo de rosa, we considered whether the threats are geographically concentrated in any portion of the species' range at a biologically meaningful scale in the context of its small natural range. We examined the following threats: Habitat destruction, fragmentation, and modification; invasive species; hurricanes; and the effects of climate change, including cumulative effects. We have identified that habitat destruction and modification is threatening known populations in three of the five areas

along the southern coast of Puerto Rico and eight of nine populations along the northern coast of Puerto Rico, particularly on privately owned lands throughout the range of the species. In addition, habitat destruction and modification are occurring within the species' range in Hispaniola. Habitat encroachment by invasive plant species and habitat fragmentation caused by harvesting of timber for fence posts and maintaining rights-of-way are also considered to be further stressors to the viability of palo de rosa across the species' range. Changes in climatic conditions are expected to result in more intense hurricanes and extended periods of drought under RCPs 4.5 and 8.5, but the effect of these changes on palo de rosa is unknown. The expected changes in climatic conditions will affect all populations of palo de rosa uniformly across the range of the species. Lastly, palo de rosa populations across the range experience low recruitment rates, slow growth, and limited dispersal.

We found no concentration of threats in any portion of palo de rosa's range at a biologically meaningful scale. Thus, there are no portions of the species' range where the species has a different status from its rangewide status. Therefore, no portion of the species' range provides a basis for determining that the species is in danger of extinction in a significant portion of its range, and we determine that the species is likely to become endangered within the foreseeable future throughout all of its range. This is consistent with the courts' holdings in *Desert Survivors* v. *Department of the Interior,* No. 16–cv–01165–JCS, 2018 WL 4053447 (N.D. Cal. Aug. 24, 2018), and *Center for Biological Diversity* v. *Jewell,* 248 F. Supp. 3d, 946, 959 (D. Ariz. 2017).

Determination of Status

Our review of the best available scientific and commercial information indicates that palo de rosa meets the Act's definition of a threatened species. Therefore, we propose to reclassify palo de rosa as a threatened species in accordance with sections 3(20) and 4(a)(1) of the Act.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a proposed listing on proposed and ongoing activities within the range of the species proposed for listing. We are proposing to reclassify palo de rosa as a threatened species, and if we adopt this rule as proposed, the prohibitions in section 9 would no longer apply directly to the palo de rosa. We are therefore proposing below a set of regulations to provide for the conservation of the species in accordance with section 4(d) of the Act, which also authorizes us to apply any of the prohibitions in section 9 of the Act to a threatened species. The proposal, which includes a description of the kinds of activities that would or would not constitute a violation, complies with this policy.

II. Proposed Rule Issued Under Section 4(d) of the Act

Background

Section 4(d) of the Act contains two sentences. The first sentence states that the Secretary of the Interior shall issue such regulations as he deems necessary and advisable to provide for the conservation of species listed as threatened. The U.S. Supreme Court has noted that statutory language like ''necessary and advisable'' demonstrates a large degree of deference to the agency (see *Webster* v. *Doe,* 486 U.S. 592 (1988)). Conservation is defined in the Act to mean the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Additionally, the second sentence of section 4(d) of the Act states that the Secretary may by regulation prohibit with respect to any threatened species any act prohibited under section 9(a)(1), in the case of fish or wildlife, or 9(a)(2), in the case of plants. Thus, the combination of the two sentences of section 4(d) provides the Secretary with wide latitude of discretion to select and promulgate appropriate regulations tailored to the specific conservation needs of the threatened species. The second sentence grants particularly broad discretion to the Service when adopting the prohibitions under section 9 of the Act.

The courts have recognized the extent of the Secretary's discretion under this standard to develop rules that are appropriate for the conservation of a species. For example, courts have upheld rules developed under section 4(d) as a valid exercise of agency authority where they prohibited take of threatened wildlife, or include a limited taking prohibition (see *Alsea Valley Alliance* v. *Lautenbacher,* 2007 U.S. Dist. Lexis 60203 (D. Or. 2007); *Washington Environmental Council* v. *National Marine Fisheries Service,* 2002 U.S. Dist. Lexis 5432 (W.D. Wash. 2002)). Courts have also upheld 4(d) rules that do not address all of the threats a species faces (see *State of Louisiana* v. *Verity,* 853 F.2d 322 (5th Cir. 1988)). As noted in the legislative history when the Act was initially enacted, ''once an animal is on the threatened list, the Secretary has an almost infinite number of options available to him with regard to the permitted activities for those species. He may, for example, permit taking, but not importation of such species, or he may choose to forbid both taking and importation but allow the transportation of such species'' (H.R. Rep. No. 412, 93rd Cong., 1st Sess. 1973).

Exercising this authority under section 4(d), we have developed a proposed rule that is designed to address palo de rosa's specific threats and conservation needs. Although the statute does not require us to make a ''necessary and advisable'' finding with respect to the adoption of specific prohibitions under section 9, we find that this rule as a whole satisfies the requirement in section 4(d) of the Act to issue regulations deemed necessary and advisable to provide for the conservation of palo de rosa. As discussed above under Summary of Biological Status and Threats, we have concluded that palo de rosa is likely to become endangered within the foreseeable future primarily due to habitat destruction and modification, particularly by urban development, right-of-way maintenance, rock quarries, and grazing. Additionally, other natural or manmade factors like hurricanes, invasive species, and landslides still threaten the species. The provisions of this proposed 4(d) rule would promote conservation of palo de rosa by encouraging conservation programs for the species and its habitat and promoting additional research to inform future habitat management and recovery actions for the species. The provisions of this proposed rule are one of many tools that we would use to promote the conservation of palo de rosa. This proposed 4(d) rule would apply only if and when we make final the reclassification of palo de rosa as a threatened species.

Provisions of the Proposed 4(d) Rule

This proposed 4(d) rule would provide for the conservation of palo de rosa by prohibiting the following activities, except as otherwise authorized or permitted: Importing or exporting; certain acts related to removing, damaging, and destroying; delivering, receiving, transporting, or shipping in interstate or foreign commerce in the course of commercial

activity; or selling or offering for sale in interstate or foreign commerce.

As discussed above under Summary of Biological Status and Threats, the present or threatened destruction, modification, or curtailment of the species' habitat or range (specifically, urban development, maintenance of power lines and associated rights-of-way, infrastructure development, rock quarries, grazing by cattle, and extraction of fence posts), inadequacy of existing regulatory mechanisms, and other natural or manmade factors affecting the species' continued existence (specifically, hurricanes, invasive plant species, landslides, and habitat fragmentation and lack of connectivity between subpopulations) are affecting the status of palo de rosa. A range of activities have the potential to impact this plant, including recreational and commercial activities. Regulating these activities will help preserve the species' remaining populations, slow their rate of potential decline, and decrease synergistic, negative effects from other stressors. As a whole, the regulation would help in the efforts to recover the species.

We may issue permits to carry out otherwise prohibited activities, including those described above, involving threatened plants under certain circumstances. Regulations governing permits are codified at 50 CFR 17.72. With regard to threatened plants, a permit may be issued for the following purposes: For scientific purposes, to enhance propagation or survival, for economic hardship, for botanical or horticultural exhibition, for educational purposes, or for other purposes consistent with the purposes and policy of the Act. Additional statutory exemptions from the prohibitions are found in sections 9 and 10 of the Act.

We recognize the special and unique relationship with our State and Territorial natural resource agency partners in contributing to conservation of listed species. State and Territorial agencies often possess scientific data and valuable expertise on the status and distribution of endangered, threatened, and candidate species of wildlife and plants. State and Territorial agencies, because of their authorities and their close working relationships with local governments and landowners, are in a unique position to assist the Services in implementing all aspects of the Act. In this regard, section 6 of the Act provides that the Services shall cooperate to the maximum extent practicable with the States in carrying out programs authorized by the Act. Therefore, any qualified employee or agent of a Territorial conservation agency that is a party to a cooperative agreement with the Service in accordance with section 6(c) of the Act, who is designated by his or her agency for such purposes, would be able to conduct activities designed to conserve palo de rosa that may result in otherwise prohibited activities for plants without additional authorization.

We also recognize the beneficial and educational aspects of activities with seeds of cultivated plants, which generally enhance the propagation of the species, and therefore would satisfy permit requirements under the Act. We intend to monitor the interstate and foreign commerce and import and export of these specimens in a manner that will not inhibit such activities, providing the activities do not represent a threat to the survival of the species in the wild. In this regard, seeds of cultivated specimens would not be regulated provided a statement that the seeds are of ''cultivated origin'' accompanies the seeds or their container.

Nothing in this proposed 4(d) rule would change in any way the recovery planning provisions of section 4(f) of the Act, the consultation requirements under section 7 of the Act, or our ability to enter into partnerships for the management and protection of palo de rosa. However, interagency cooperation may be further streamlined through planned programmatic consultations for the species between us and other Federal agencies, where appropriate. We ask the public, particularly State and Territorial agencies and other interested stakeholders that may be affected by the proposed 4(d) rule, to provide comments and suggestions regarding additional guidance and methods that the Service could provide or use, respectively, to streamline the implementation of this proposed 4(d) rule (see Information Requested, above).

Required Determinations

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(1) Be logically organized;

(2) Use the active voice to address readers directly;

(3) Use clear language rather than jargon;

(4) Be divided into short sections and sentences; and

(5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

National Environmental Policy Act

We have determined that environmental assessments and environmental impact statements, as defined in the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), need not be prepared in connection with determining a species' listing status under the Endangered Species Act. In an October 25, 1983, notice in the **Federal Register** (48 FR 49244), we outlined our reasons for this determination, which included a compelling recommendation from the Council on Environmental Quality that we cease preparing environmental assessments or environmental impact statements for listing decisions.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. We have determined that there are no Tribal lands affected by this proposal.

References Cited

A complete list of references cited is available on *http://www.regulations.gov* under Docket Number FWS–R4–ES–2020–0059 and upon request form the Caribbean Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this document are staff members of the Caribbean Ecological Services Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.12(h) by revising the entry ''*Ottoschulzia rhodoxylon*'' under FLOWERING PLANTS in the List of Endangered and Threatened Plants to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Scientific name	Common name	Where listed	Status	Listing citations and applicable rules
FLOWERING PLANTS				
* *	*	*	*	* *
Ottoschulzia rhodoxylon	Palo de rosa	Wherever found	T	55 FR 13488, 4/10/1990; [**Federal Register** citation of final rule]; 50 CFR 17.73(g).[4d]
* *	*	*	*	* *

■ 3. Add § 17.73 to read as follows:

§ 17.73 Special rules—flowering plants.

(a) through (f) [Reserved]

(g) *Ottoschulzia rhodoxylon* (palo de rosa).

(1) *Prohibitions.* The following prohibitions that apply to endangered plants also apply to *Ottoschulzia rhodoxylon* (palo de rosa). Except as provided under paragraph (g)(2) of this section, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or cause to be committed, any of the following acts in regard to this species:

(i) Import or export, as set forth at § 17.61(b) for endangered plants.

(ii) Remove and reduce to possession from areas under Federal jurisdiction, as set forth at § 17.61(c)(1).

(iii) Maliciously damage or destroy the species on any areas under Federal jurisdiction, or remove, cut, dig up, or damage or destroy the species on any other area in knowing violation of any law or regulation of the Territory or in the course of any violation of a Territorial criminal trespass law, as set forth at section 9(a)(2)(B) of the Act.

(iv) Interstate or foreign commerce in the course of commercial activity, as set forth at § 17.61(d) for endangered plants.

(v) Sell or offer for sale, as set forth at § 17.61(e) for endangered plants.

(2) *Exceptions from prohibitions.* In regard to *Ottoschulzia rhodoxylon* (palo de rosa):

(i) The prohibitions described in paragraph (g)(1) of this section do not apply to activities conducted as authorized by a permit issued in accordance with § 17.72.

(ii) Any employee or agent of the Service or of a Territorial conservation agency that is operating under a conservation program pursuant to the terms of a cooperative agreement with the Service in accordance with section 6(c) of the Act, who is designated by that agency for such purposes, may, when acting in the course of official duties, remove and reduce to possession from areas under Federal jurisdiction members of palo de rosa that are covered by an approved cooperative agreement to carry out conservation programs.

(iii) You may engage in any act prohibited under paragraph (g)(1) of this section with seeds of cultivated specimens, provided that a statement that the seeds are of ''cultivated origin'' accompanies the seeds or their container.

Martha Williams,

Principal Deputy Director, Exercising the Delegated Authority of the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2021–14661 Filed 7–13–21; 8:45 am]

BILLING CODE 4333–15–P

Notices

Federal Register
Vol. 86, No. 132
Wednesday, July 14, 2021

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

July 9, 2021.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by August 13, 2021 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: On Farm Monitoring of Antimicrobial Use and Resistance in U.S. Broiler Production.

OMB Control Number: 0579–New.

Summary of Collection: 7 U.S.C. 391, the Animal Industry Act of 1884, directs USDA to collect and disseminate animal health data and information. 7 U.S.C. 8308 of the Animal Health Protection Act, ''Detection, Control, and Eradication of Diseases and Pests,'' May 13, 2002, further directs USDA to examine and report on animal disease control methods. APHIS's mission is to protect and improve American agriculture's productivity and competitiveness. Realizing this mission relies, in large part, on collecting, analyzing, and disseminating livestock and poultry health information.

APHIS is making this submission to initiate the National Animal Health Monitoring System's (NAHMS') On-farm Monitoring of Antimicrobial Use and Resistance in U.S. Broiler Production study. This study is an information collection conducted by APHIS through a cooperative agreement with the University of Minnesota. This longitudinal study will monitor U.S. broiler chicken operations for antimicrobial use (AMU), antimicrobial resistance (AMR), animal health and production practices, and the relationship between them and changes over time.

Need and Use of the Information: This study provides U.S. poultry producers and animal health professionals information about the relationship between AMU, AMR, animal health and production, and changes in each over time. This information is essential for effectively responding to the global health threat posed to animals and humans of increasing antimicrobial resistance. APHIS will use NAHMS 470 and NAHMS 471 to collect the information for the study. Without this survey, APHIS will have limited information by which to make decisions related to AMU and AMR as they relate to the U.S. poultry industry.

Description of Respondents: Businesses or other for-profits.

Number of Respondents: 30.

Frequency of Responses: Reporting; On occasion; Quarterly.

Total Burden Hours: 866.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2021–15003 Filed 7–13–21; 8:45 a.m.]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

July 9, 2021.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are required regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by August 13, 2021 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it

displays a currently valid OMB control number.

Farm Service Agency

Title: Representations for CCC and FSA Loans and Authorization to File a Financing Statement and Related Documents Under the Revised Article 9 of the Uniform Commercial Code.

OMB Control Number: 0560–0215.

Summary of Collection: Commodity Credit Corporation and the Farm Service Agency (FSA) programs require loans be secured with collateral. The security interest is created and attaches to the collateral when: (1) Value has been given, (2) the debtor has rights in the collateral or the power to transfer rights in the collateral, and (3) the debtor has authenticated a security agreement that provides a description of the collateral. In order to perfect the security interest in collateral, a financing statement must be filed according to a State's Uniform Commercial Code. The revised Article 9 of the Uniform Commercial Code deals with secured transaction for personal property. The revised Article 9 affects the way the CCC and FSA, as well as any other creditor, perfect and liquidate security interests in collateral.

Need and Use of the Information: FSA will collect information using form CCC–10, Representations for Commodity Credit Corporation or Farm Service Agency Loans and Authorization to File a Financing Statement and Related Documents. The information obtained on CCC–10 is needed to not only obtain authorization from loan applicants to file a financing statement without their signature, but also to verify the exact legal name and location of the debtor. If this information is not collected, CCC and FSA will not be able to disburse loans because a security interest would not be perfected.

Description of Respondents: Farms; Individuals or households; Business or other for-profit.

Number of Respondents: 4,634.

Frequency of Responses: Reporting; On occasion.

Total Burden Hours: 385.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2021–14962 Filed 7–13–21; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF COMMERCE

Office of the Under Secretary for Economic Affairs

Advisory Committee on Data for Evidence Building

AGENCY: Office of the Under Secretary for Economic Affairs, U.S. Department of Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Office of the Under Secretary for Economic Affairs is providing notice of three upcoming meetings of the Advisory Committee on Data for Evidence Building (ACDEB or Committee). These will constitute the eleventh, twelfth, and thirteenth meetings of the Committee in support of its charge to review, analyze, and make recommendations on how to promote the use of Federal data for evidence building purposes. At the conclusion of the Committee's first and second year, it will submit to the Director of the Office of Management and Budget, Executive Office of the President, an annual report on the activities and findings of the Committee. This report will also be made available to the public.

DATES: August 20, 2021; September 17, 2021; October 22, 2021. The meetings will begin at approximately 9:00 a.m. and adjourn at approximately 12:00 p.m. (ET). Each meeting will be held virtually.

ADDRESSES: Those interested in attending the Committee's public meetings are requested to RSVP to *Evidence@bea.gov* one week prior to each meeting. Agendas, background material, and meeting links will be accessible 24 hours prior to each meeting at *www.bea.gov/evidence.*

Members of the public who wish to submit written input for the Committee's consideration are welcomed to do so via email to *Evidence@bea.gov.* Additional opportunities for public input will be forthcoming.

FOR FURTHER INFORMATION CONTACT: Gianna Marrone, Program Analyst, U.S. Department of Commerce, 4600 Silver Hill Road (BE–64), Suitland, MD 20746; phone (301) 278–9282; email *Evidence@bea.gov.*

SUPPLEMENTARY INFORMATION: The Foundations for Evidence-Based Policymaking Act (Pub. L. 115–435, Evidence Act 101(a)(2) (5 U.S.C. 315 (a)), establishes the Committee and its charge. It specifies that the Chief Statistician of the United States shall serve as the Chair and other members shall be appointed by the Director of the Office of Management and Budget (OMB). The Act prescribes a membership balance plan that includes: One agency Chief Information Officer; one agency Chief Privacy Officer; one agency Chief Performance Officer; three members who are agency Chief Data Officers; three members who are agency Evaluation Officers; and three members who are agency Statistical Officials who are members of the Interagency Council for Statistical Policy established under section 3504(e)(8) of title 44. Additionally, at least 10 members are to be representative of state and local governments and nongovernmental stakeholders with expertise in government data policy, privacy, technology, transparency policy, evaluation and research methodologies, and other relevant subjects. Committee members serve for a term of two years. Following a public solicitation and review of nominations, the Director of OMB appointed members per this balance plan and information on the membership can be found at *www.bea.gov/evidence.* Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.

The ACDEB is interested in the public's input on the issues it will consider, and requests that interested parties submit statements to the ACDEB via email to *Evidence@bea.gov.* Please use the subject line ''ACDEB Meeting Public Comment.'' All statements will be provided to the members for their consideration and will become part of the Committee's records. Additional opportunities for public input will be forthcoming as the Committee's work progresses.

ACDEB Committee meetings are open, and the public is invited to attend and observe. Those planning to attend are asked to RSVP to *Evidence@bea.gov.* The call-in number, access code, and meeting link will be posted 24 hours prior to each meeting on *www.bea.gov/evidence.* The meetings are accessible to people with disabilities. Requests for foreign language interpretation or other auxiliary aids should be directed to Gianna Marrone at *Evidence@bea.gov* two weeks prior to each meeting.

Dated: July 7, 2021.

Alyssa Holdren,

Designated Federal Official, U.S. Department of Commerce.

[FR Doc. 2021–14897 Filed 7–13–21; 8:45 am]

BILLING CODE 3510–MN–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–21–2021]

Foreign-Trade Zone (FTZ) 99—Wilmington, Delaware; Authorization of Production Activity; AstraZeneca Pharmaceuticals LP (Pharmaceutical Products); Newark, Delaware

On March 11, 2021, AstraZeneca Pharmaceuticals LP submitted a notification of proposed production activity to the FTZ Board for its facility within Subzone 99D, in Newark, Delaware.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (86 FR 14867–14868, March 19, 2021). On July 9, 2021, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: July 9, 2021.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2021–14958 Filed 7–13–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–53–2021]

Foreign-Trade Zone (FTZ) 93—Raleigh/Durham, North Carolina; Notification of Proposed Production Activity; Liebel-Flarsheim Company, LLC (Diagnostic Imaging Contrast Media); Raleigh, North Carolina

The Triangle J Council of Governments, grantee of FTZ 93, submitted a notification of proposed production activity to the FTZ Board on behalf of Liebel-Flarsheim Company, LLC (Liebel-Flarsheim), located in Raleigh, North Carolina. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on June 30, 2021.

Liebel-Flarsheim already has authority to produce diagnostic imaging contrast media within FTZ 93. The current request would add a finished product and a foreign status material to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status material and specific finished product described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Liebel-Flarsheim from customs duty payments on the foreign-status material used in export production. On its domestic sales, for the foreign-status materials noted below and in the existing scope of authority, Liebel-Flarsheim would be able to choose the duty rate during customs entry procedures that applies to gadopiclenol (finished contrast media) (duty-free). Liebel-Flarsheim would be able to avoid duty on the foreign-status material which becomes scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The material sourced from abroad is gadopiclenol (active pharmaceutical ingredient) (duty rate—3.7%). The request indicates that the material is subject to duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is August 23, 2021.

A copy of the notification will be available for public inspection in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Diane Finver at *Diane.Finver@trade.gov.*

Dated: July 8, 2021.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2021–14955 Filed 7–13–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–78–2021]

Approval of Subzone Status; Watco Transloading, LLC; Parsons, Kansas

On May 18, 2021, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Board of County Commissioners of Sedgwick County, grantee of FTZ 161, requesting subzone status subject to the existing activation limit of FTZ 161, on behalf of Watco Transloading, LLC, in Parsons, Kansas.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (86 FR 27827, May 24, 2021). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval.

Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR 400.36(f)), the application to establish Subzone 161D was approved on July 8, 2021, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 161's 2,000-acre activation limit.

Dated: July 8, 2021.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2021–14956 Filed 7–13–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–52–2021]

Foreign-Trade Zone (FTZ) 265—Conroe, Texas; Notification of Proposed Production Activity; Galdisa USA (Peanut Products); Conroe, Texas

The City of Conroe, Texas, grantee of FTZ 265, submitted a notification of proposed production activity to the FTZ Board on behalf of Galdisa USA (Galdisa), located in Conroe, Texas. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on June 30, 2021.

The Galdisa facility is located within FTZ 265. The facility is used for the production of peanut products. Galdisa is requesting export-only FTZ authority to produce peanut butter, roasted peanuts, peanut granules, peanut paste, and blanched peanuts. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Galdisa from customs duty payments on the foreign-status components used in the company's export production of peanut products. Customs duties also could possibly be deferred or reduced on foreign-status production equipment. If the proposal were approved, the foreign-status sugar and peanuts used in the FTZ production for export would not be subject to quota(s).

The components and materials sourced from abroad include: Raw peanuts in shell; beet sugar; cane sugar; sugar (not raw); salt; crude peanut oil; non-crude peanut oil; raw peanuts shelled; and, blanched peanuts (duty rate ranges from free to 163.8% (ex-quota rate)). The request indicates that certain materials/components are subject to duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is August 23, 2021.

A copy of the notification will be available for public inspection in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Diane Finver at *Diane.Finver@trade.gov* or (202) 482–1367.

Dated: July 8, 2021.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2021–14954 Filed 7–13–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Information Systems Technical Advisory Committee; Notice of Meeting

The Information Systems Technical Advisory Committee (ISTAC) will meet on July 28 and 29, 2021, at 1:00 p.m., Eastern Daylight Time. The meetings will be available via teleconference. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology.

Wednesday, July 28

Open Session

1. Welcome and Announcements
2. Working Group Reports
3. New Business

Thursday, July 29:

Closed Session

4. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov,* no later than July 21, 2021.

To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that public presentation materials or comments be forwarded before the meeting to Ms. Springer.

For more information, call Yvette Springer at (202) 482–2813.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2021–14959 Filed 7–13–21; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–833]

Citric Acid and Certain Citrate Salts From Thailand: Final Results of Antidumping Duty Administrative Review; 2019–2020

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that sales of citric acid and certain citrate salts (citric acid) from Thailand have not been made at less than normal value by COFCO Biochemical (Thailand) Co., Ltd. (COFCO) or Sunshine Biotech International Co., Ltd. (Sunshine) during the period of review (POR), July 1, 2019, through June 30, 2020.

DATES: Applicable July 14, 2021.

FOR FURTHER INFORMATION CONTACT: Joy Zhang or Patrick Barton, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1168 or (202) 482–0012, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 1, 2021, Commerce published the *Preliminary Results.*[1] We invited interested parties to comment on the *Preliminary Results.*[2] This review covers three respondents: COFCO, Niran (Thailand) Co., Ltd. (Niran), and Sunshine. Commerce rescinded this review, in part, with respect to Niran on February 3, 2021.[3] No interested party submitted comments on the *Preliminary Results.* Accordingly, the final results remain unchanged from the *Preliminary Results.* Commerce conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise covered by the order is citric acid and certain citrate salts from Thailand. The scope of the order includes all grades and granulation sizes of citric acid, sodium citrate, and potassium citrate in their unblended forms, whether dry or in solution, and regardless of packaging type. The scope also includes blends of citric acid, sodium citrate, and potassium citrate; as well as blends with other ingredients, such as sugar, where the unblended form(s) of citric acid, sodium citrate, and potassium citrate constitute 40 percent or more, by weight, of the blend.

The scope also includes all forms of crude calcium citrate, including dicalcium citrate monohydrate, and tricalcium citrate tetrahydrate, which are intermediate products in the production of citric acid, sodium citrate, and potassium citrate.

The scope includes the hydrous and anhydrous forms of citric acid, the dihydrate and anhydrous forms of sodium citrate, otherwise known as citric acid sodium salt, and the monohydrate and monopotassium forms of potassium citrate. Sodium citrate also includes both trisodium citrate and monosodium citrate which are also known as citric acid trisodium salt and citric acid monosodium salt, respectively.

The scope does not include calcium citrate that satisfies the standards set forth in the United States Pharmacopeia and has been mixed with a functional excipient, such as dextrose or starch, where the excipient constitutes at least 2 percent, by weight, of the product.

Citric acid and sodium citrate are classifiable under 2918.14.0000 and 2918.15.1000 of the Harmonized Tariff Schedule of the United States (HTSUS),

[1] *See Citric Acid and Certain Citrate Salts from Thailand: Preliminary Results of Antidumping Duty Administrative Review; 2019–2020,* 86 FR 17122 (April 1, 2021) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See Preliminary Results,* 86 FR at 17123.

[3] *See Citric Acid and Certain Citrate Salts from Thailand: Partial Recission of Antidumping Duty Administrative Review; 2019–2020,* 86 FR 7989 (February 3, 2021).

respectively. Potassium citrate and crude calcium citrate are classifiable under 2918.15.5000 and, if included in a mixture or blend, 3824.99.9295 of the HTSUS. Blends that include citric acid, sodium citrate, and potassium citrate are classifiable under 3824.99.9295 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Final Results of the Administrative Review

We determine that the following weighted-average dumping margins exist for the respondents for the POR, July 1, 2019, through June 30, 2020:

Exporter or producer	Weighted-average dumping margin (percent)
COFCO Biochemical (Thailand) Co., Ltd	0.00
Sunshine Biotech International Co., Ltd	0.00

Disclosure

As noted above, Commerce received no comments on its *Preliminary Results.* As a result, we have not modified our analysis, and will not issue a decision memorandum to accompany this **Federal Register** notice. Further, because we have not changed our calculations since the *Preliminary Results*, there are no new calculations to disclose in accordance with 19 CFR 351.224(b) for these final results. We are adopting the *Preliminary Results* as the final results.

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. We will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of the importer's sales in accordance with 19 CFR 351.212(b)(1).

Where the respondent's weighted-average dumping margin is either zero or *de minimis* within the meaning of 19 CFR 351.106(c), or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Commerce's ''reseller policy'' will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (*e.g.,* a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[4]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements for estimated antidumping duties will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the companies listed above will be equal to each company's weighted-average dumping margin established in the final results of this administrative review (except if that rate is *de minimis,* in which situation the cash deposit rate will be zero); (2) for merchandise exported by a producer or exporter not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the producer has been covered in a prior complete segment of this proceeding, the cash deposit rate will be the company-specific rate established for the most recent period for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 11.25 percent,[5] the all-others rate established in the less-than-fair-value investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these final results of administrative review in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(5).

Dated: July 8, 2021.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2021–14896 Filed 7–13–21; 8:45 am]

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[4] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[5] *See Citric Acid and Certain Citrate Salts from Belgium, Colombia, and Thailand: Antidumping Duty Orders,* 83 FR 35214, 35215 (July 25, 2018).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–827]

Certain Cased Pencils From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2018–2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) has completed its administrative review of the antidumping duty order on certain cased pencils (cased pencils) from the

People's Republic of China for the period of review (POR) December 1, 2018, through November 30, 2019. We continue to find that Wah Yuen Stationery Co. Ltd. and Shandong Wah Yuen Stationery Co. Ltd. (collectively, Wah Yuen) had no shipments of cased pencils during the POR. We also continue to find that Tianjin Tonghe Stationery Co., Ltd. (Tianjin Tonghe) and Ningbo Homey Union Co., Ltd. (Ningbo Homey) are not eligible for a separate rate and should be treated as part of the China-wide entity.

DATES: Applicable July 14, 2021.

FOR FURTHER INFORMATION CONTACT: Sergio Balbontin or Brian Smith, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC, 20230; telephone: 202–482–6478 or 202–482–1766, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 15, 2021, Commerce published the *Preliminary Results* in the **Federal Register**.[1] We invited interested parties to comment on the *Preliminary Results;* however, no interested parties submitted comments. Accordingly, we made no changes to the *Preliminary Results.*

Scope of the Order [2]

The merchandise covered by this *Order* is certain cased pencils of any shape or dimension (except as described below) which are writing and/or drawing instruments that feature cores of graphite or other materials, encased in wood and/or man-made materials, whether or not decorated and whether or not tipped (*e.g.,* with erasers, etc.) in any fashion, and either sharpened or unsharpened. The pencils subject to the *Order* are currently classifiable under subheading 9609.10.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Specifically excluded from the scope of the *Order* are mechanical pencils, cosmetic pencils, pens, non-cased crayons (wax), pastels, charcoals, chalks, and pencils produced under U.S. patent number 6,217,242, from paper infused with scents by the means covered in the above-referenced patent, thereby having odors distinct from those that may emanate from pencils lacking the scent infusion. Also excluded from the scope of the *Order* are pencils with all of the following physical characteristics: (1) Length: 13.5 or more inches; (2) sheath diameter: Not less than one-and-one quarter inches at any point (before sharpening); and (3) core length: Not more than 15 percent of the length of the pencil.

In addition, pencils with all of the following physical characteristics are excluded from the scope of the *Order:* Novelty jumbo pencils that are octagonal in shape, approximately ten inches long, one inch in diameter before sharpening, and three-and-one eighth inches in circumference, composed of turned wood encasing one-and-one half inches of sharpened lead on one end and a rubber eraser on the other end.

Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the *Order* is dispositive.

Final Determination of No Shipments

In the *Preliminary Results,* Commerce determined that Wah Yuen [3] had no shipments of cased pencils during the POR, based on our analysis of U.S. Customs and Border Protection (CBP) entry documentation and Wah Yuen's questionnaire responses.[4] We received no comments on our preliminary finding. As there is no information on the record that calls into question this preliminary finding, we continue to find in the final results of this review that Wah Yuen had no shipments of subject merchandise during the POR.

China-Wide Entity

With the exception of Wah Yuen, we find all other companies for which a review was requested to be part of the China-wide entity, because they failed to file no-shipment statements, separate rate applications, or separate rate certifications. Accordingly, Tianjin Tonghe and Ningbo Homey are part of the China-wide entity. Because no party requested a review of the China-wide entity, and Commerce no longer considers the China-wide entity as an exporter, conditionally subject to administrative reviews, we did not conduct a review of the China-wide entity.[5] The rate previously established for the China-wide entity is 114.90 percent and is not subject to change as a result of this review.[6]

Assessment Rates

Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries in accordance with section 751(a)(2)(C) of the Tariff Act of 1930, as amended, (the Act) and 19 CFR 351.212(b). Because we determined that Tianjin Tonghe and Ningbo Homey are not eligible for a separate rate and are part of the China-wide entity, we will instruct CBP to apply an *ad valorem* assessment rate of 114.90 percent (*i.e.,* the China-wide entity rate) to all entries of subject merchandise during the POR that were exported by these companies. In addition, as Commerce continues to find that Wah Yuen did not have any shipments of subject merchandise during the POR, we will instruct CBP to assess any suspended entries of subject merchandise associated with Wah Yuen at the China-wide rate.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of these final results of review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all

[1] *See Certain Cased Pencils from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Determination of No Shipments, and Rescission of Review, in Part; 2018–2019,* 86 FR 19873 (April 15, 2021) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See Certain Cased Pencils from the People's Republic of China: Continuation of Antidumping Duty Order,* 82 FR 41608 (September 1, 2017); and *Antidumping Duty Order: Certain Cased Pencils from the People's Republic of China,* 59 FR 66909 (December 28, 1994) (collectively, *Order*).

[3] Commerce has determined that Wah Yuen Stationery Co. Ltd. and Shandong Wah Yuen Stationery Co. Ltd. are affiliated and should be treated as a single entity in the *Preliminary Results* and prior administrative reviews. *See Preliminary Results* and Preliminary Decision Memorandum at 1, n.1; *see also Certain Cased Pencils from the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Review; 2014–2015,* 81 FR 37573 (June 10, 2016), and accompanying Preliminary Decision Memorandum at 9–10, unchanged in *Certain Cased Pencils from the People's Republic of China: Final Results of Antidumping Duty New Shipper Review; 2014–2015,* 81 FR 74764 (October 27, 2016). We received no comments regarding our treatment of these companies as a single entity and therefore continue to collapse them for the final results of this administrative review.

[4] *See* Wah Yuen's Letter, ''Certain Cased Pencils from the People's Republic of China: Questionnaire Response,'' dated August 21, 2020; *see also* Wah Yuen's Letter, ''Certain Cased Pencils from the People's Republic of China: Response to Supplemental Questionnaire,'' dated February 12, 2021.

[5] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[6] *See Certain Cased Pencils from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013,* 80 FR 26897 (May 11, 2015).

shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) Wah Yuen's cash deposit rate will continue to be its existing exporter-producer specific rate; [7] (2) for previously investigated or reviewed Chinese and non-Chinese exporters for which a review was not requested and that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate published for the most recently-completed period; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the China-wide entity; and (4) for all non-Chinese exporters of subject merchandise that have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice also serves as a final reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

[7] *See Certain Cased Pencils from the People's Republic of China: Final Results of Antidumping Duty New Shipper Review; 2014–2015,* 81 FR 74764 (October 27, 2016), and accompanying Issues and Decision Memorandum.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h) and 19 CFR 351.221(b)(5).

Dated: July 8, 2021.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2021–14957 Filed 7–13–21; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–919]

Electrolytic Manganese Dioxide From the People's Republic of China: Rescission of the Antidumping Duty Administrative Review; 2018–2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is rescinding this review. The period of review (POR) is October 1, 2018, through September 30, 2019.

DATES: Applicable July 14, 2021.

FOR FURTHER INFORMATION CONTACT: Krisha Hill, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4037.

SUPPLEMENTARY INFORMATION:

Background

On February 23, 2021, Commerce published its preliminary rescission of this administrative review in the **Federal Register** and invited parties to comment thereon.[1] For a discussion of events subsequent to the *Preliminary Recission,* see the Issues and Decision Memorandum.[2] On June 21, 2021, Commerce extended the deadline for issuing the final results of this review until July 14, 2021.[3]

[1] *See Electrolytic Manganese Dioxide from the People's Republic of China: Preliminary Rescission of the Antidumping Duty Administrative Review;* 2018–2019, 86 FR 10925 (February 23, 2021) (*Preliminary Rescission*).

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2018–2019 Antidumping Duty Administrative Review of Electrolytic Manganese Dioxide from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See* Memorandum, ''Electrolytic Manganese Dioxide from the People's Republic of China: Antidumping Duty Administrative Review; 2018–2019; Extension of Deadline for Final Results,'' dated June 21, 2021.

Scope of the Order

The merchandise covered by the order includes all manganese dioxide (MnO2) that has been manufactured in an electrolysis process, whether in powder, chip, or plate form. Excluded from the scope are natural manganese dioxide (NMD) and chemical manganese dioxide (CMD). The merchandise subject to the order is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2820.10.00.00. While the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Analysis of the Comments Received

We addressed the issues raised in the case and rebuttal briefs that were submitted in this review in the Issues and Decision Memorandum. A list of the sections in the Issues and Decision Memorandum is in the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.*

Rescission of Administrative Review

As discussed in the Issues and Decision Memorandum, Duracell (China) Limited (DCL), the sole company under review reported that neither it, nor its U.S. affiliates, sold subject merchandise or further manufactured subject merchandise (*i.e.,* batteries containing subject merchandise) to unaffiliated U.S. customers during the POR. Moreover, Commerce determined that DCL did not adequately demonstrate that it could trace the POR entry of subject merchandise, which was used to manufacture batteries in the United States, to particular batteries that were sold to unaffiliated U.S. customers after the end of the POR. Therefore, we have determined that there are no reviewable sales with which to calculate a dumping margin and we have rescinded this review.[4]

Assessment

We intend to instruct U.S. Customs and Border Protection (CBP) to liquidate POR entries of subject merchandise from DCL at the rate applicable at the time of entry into the United States,

[4] *See* 19 CFR 351.213(d)(3).

which is the China-wide entity rate (*i.e.,* 149.92 percent).

Consistent with its recent notice,[5] Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of this notice in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

Because we rescinded this administrative review, we have not calculated a company-specific dumping margin for DCL. Therefore, entries of DCL's subject merchandise continue to be subject to the China-wide cash deposit rate of 149.92 percent. This cash deposit rate requirement shall remain in effect until further notice.

Administrative Protective Order

This notice also serves as a reminder to parties subject to Administrative Protective Order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

[5] *See Preliminary Rescission.*

Dated: July 7, 2021.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Sections in the Issues and Decision Memorandum

[FR Doc. 2021–14895 Filed 7–13–21; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 84–32A12]

Export Trade Certificate of Review

ACTION: Notice of application for an amended Export Trade Certificate of Review by Northwest Fruit Exporters, Application No. 84–32A12.

SUMMARY: The Office of Trade and Economic Analysis (''OTEA'') of the International Trade Administration, Department of Commerce, has received an application for an amended Export Trade Certificate of Review (''Certificate''). This notice summarizes the proposed amendment and requests comments relevant to whether the amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Joseph Flynn, Director, Office of Trade and Economic Analysis, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number) or email at *etca@trade.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001–21) (''the Act'') authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. The regulations implementing Title III are found at 15 CFR part 325. OTEA is issuing this notice pursuant to 15 CFR 325.6(a), which requires the Secretary of Commerce to publish a summary of the application in the **Federal Register**, identifying the applicant and each member and summarizing the proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked as privileged or confidential business information will be deemed to be nonconfidential.

An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Trade and Economic Analysis, International Trade Administration, U.S. Department of Commerce, Room 21028, Washington, DC 20230; and to email at *etca@trade.gov.*

Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the amended Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 84–32A12.''

Summary of the Application

Applicant: Northwest Fruit Exporters, 105 South 18th Street, Suite 105, Yakima, WA 98901.

Contact: Fred Scarlett, Manager, *scarlett@nwhort.org.*

Application No.: 84–32A12.

Date Deemed Submitted: July 2, 2021.

Proposed Amendment: Northwest Fruit Exporters seeks to amend its Certificate as follows:

1. Remove the following companies as Members of the Certificate:
   - Griggs Farms Packing, LLC, Orondo, WA
   - Naumes, Inc., Medford, OR
   - Pride Packing Company LLC, Wapato, WA
   - Yakima Fresh, Yakima, WA
2. Change the names of the following Members of the Certificate:
   - Auvil Fruit Co., Inc. (Orondo, WA) changes to Auvil Fruit Co., Inc. dba Gee Whiz II, LLC (Orondo, WA)
   - Conrad & Adams Fruit L.L.C. (Grandview, WA) changes to River Valley Fruit, LLC (Grandview, WA)
3. Change the Export Product coverage for one Member:
   - E.W. Brandt & Sons, Inc. changes

Export Product coverage from fresh apples and fresh sweet cherries to fresh apples (dropping fresh sweet cherries).

Northwest Fruit Exporter's proposed amendment of its Certificate would result in the following Membership list:

1. Allan Bros., Naches, WA
2. AltaFresh L.L.C. dba Chelan Fresh Marketing, Chelan, WA
3. Apple House Warehouse & Storage, Inc., Brewster, WA
4. Apple King, L.L.C., Yakima, WA
5. Auvil Fruit Co., Inc. dba Gee Whiz II, LLC, Orondo, WA
6. Baker Produce, Inc., Kennewick, WA
7. Blue Bird, Inc., Peshastin, WA
8. Blue Star Growers, Inc., Cashmere, WA
9. Borton & Sons, Inc., Yakima, WA
10. Brewster Heights Packing & Orchards, LP, Brewster, WA
11. Chelan Fruit Cooperative, Chelan, WA
12. Chiawana, Inc. dba Columbia Reach Pack, Yakima, WA
13. CMI Orchards LLC, Wenatchee, WA
14. Columbia Fruit Packers, Inc., Wenatchee, WA
15. Columbia Valley Fruit, L.L.C., Yakima, WA
16. Congdon Packing Co. L.L.C., Yakima, WA
17. Cowiche Growers, Inc., Cowiche, WA
18. CPC International Apple Company, Tieton, WA
19. Crane & Crane, Inc., Brewster, WA
20. Custom Apple Packers, Inc., Quincy, and Wenatchee, WA
21. Diamond Fruit Growers, Inc., Odell, OR
22. Domex Superfresh Growers LLC, Yakima, WA
23. Douglas Fruit Company, Inc., Pasco, WA
24. Dovex Export Company, Wenatchee, WA
25. Duckwall Fruit, Odell, OR
26. E. Brown & Sons, Inc., Milton-Freewater, OR
27. Evans Fruit Co., Inc., Yakima, WA
28. E.W. Brandt & Sons, Inc., Parker, WA (for fresh apples only)
29. FirstFruits Farms, LLC, Prescott, WA
30. Frosty Packing Co., LLC, Yakima, WA
31. G&G Orchards, Inc., Yakima, WA
32. Gilbert Orchards, Inc., Yakima, WA
33. Hansen Fruit & Cold Storage Co., Inc., Yakima, WA
34. Henggeler Packing Co., Inc., Fruitland, ID
35. Highland Fruit Growers, Inc., Yakima, WA
36. HoneyBear Growers LLC, Brewster, WA
37. Honey Bear Tree Fruit Co LLC, Wenatchee, WA
38. Hood River Cherry Company, Hood River, OR
39. JackAss Mt. Ranch, Pasco, WA
40. Jenks Bros Cold Storage & Packing, Royal City, WA
41. Kershaw Fruit & Cold Storage, Co., Yakima, WA
42. L & M Companies, Union Gap, WA
43. Legacy Fruit Packers LLC, Wapato, WA
44. Manson Growers Cooperative, Manson, WA
45. Matson Fruit Company, Selah, WA
46. McDougall & Sons, Inc., Wenatchee, WA
47. Monson Fruit Co., Selah, WA
48. Morgan's of Washington dba Double Diamond Fruit, Quincy, WA
49. Northern Fruit Company, Inc., Wenatchee, WA
50. Olympic Fruit Co., Moxee, WA
51. Oneonta Trading Corp., Wenatchee, WA
52. Orchard View Farms, Inc., The Dalles, OR
53. Pacific Coast Cherry Packers, LLC, Yakima, WA
54. Piepel Premium Fruit Packing LLC, East Wenatchee, WA
55. Pine Canyon Growers LLC, Orondo, WA
56. Polehn Farms, Inc., The Dalles, OR
57. Price Cold Storage & Packing Co., Inc., Yakima, WA
58. Quincy Fresh Fruit Co., Quincy, WA
59. Rainier Fruit Company, Selah, WA
60. River Valley Fruit, LLC, Grandview, WA
61. Roche Fruit, Ltd., Yakima, WA
62. Sage Fruit Company, L.L.C., Yakima, WA
63. Smith & Nelson, Inc., Tonasket, WA
64. Stadelman Fruit, L.L.C., Milton-Freewater, OR, Hood River, OR, and Zillah, WA
65. Stemilt Growers, LLC, Wenatchee, WA
66. Symms Fruit Ranch, Inc., Caldwell, ID
67. The Dalles Fruit Company, LLC, Dallesport, WA
68. Underwood Fruit & Warehouse Co., Bingen, WA
69. Valicoff Fruit Company Inc., Wapato, WA
70. Washington Cherry Growers, Peshastin, WA
71. Washington Fruit & Produce Co., Yakima, WA
72. Western Sweet Cherry Group, LLC, Yakima, WA
73. Whitby Farms, Inc. dba: Farm Boy Fruit Snacks LLC, Mesa, WA
74. WP Packing LLC, Wapato, WA
75. Yakima Fruit & Cold Storage Co., Yakima, WA
76. Zirkle Fruit Company, Selah, WA

Dated: July 9, 2021.

Joseph Flynn,

Director, Office of Trade and Economic Analysis, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 2021–14939 Filed 7–13–21; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Intent To Conduct Restoration Planning

AGENCY: Office of Response and Restoration (OR&R), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce (DOC).

ACTION: Notice of intent to conduct restoration planning activities.

SUMMARY: Notice is hereby given of intent to proceed with restoration planning actions to address injuries to natural resources resulting from the discharge of oil from the Kirby Inland Marine LP tank barge 30015T (the ''Incident''). The purpose of this restoration planning effort is to evaluate and select restoration actions to compensate the public for the natural resource injuries resulting from the Incident.

FOR FURTHER INFORMATION CONTACT: For further information contact one or more of the following Trustee representatives: Laurie Sullivan (NOAA) at (707) 570–1762, *Laurie.Sullivan@noaa.gov;* Johanna Gregory Belssner (TPWD) at (512) 389–8703, *Johanna.Gregory@tpwd.texas.gov.*

SUPPLEMENTARY INFORMATION:

Background

On May 10, 2019, tank barge 30015T, owned by Kirby Inland Marine, LP (''Kirby''), collided with the tanker ship Genesis River near Bayport, Texas. The collision penetrated the hull of Kirby's barge 30015T, and an estimated 14,278 barrels (about 600,000 gallons) of oil in the form of reformate, a gasoline blending stock, was lost from the barge. Reformate discharged from the Kirby barge flowed into the Houston Ship Channel and Galveston Bay, spreading westward and southward and washing ashore on the western coastline of the bay roughly between Red Bluff and Eagle Point, Texas. The discharge affected natural resources in the general area. All of the foregoing is referred to as the ''Incident.''

Pursuant to section 1006 of the Oil Pollution Act (''OPA''), 33 U.S.C. 2701,

et seq., federal and state trustees for natural resources are authorized to (1) assess natural resource injuries resulting from a discharge of oil or the substantial threat of a discharge and response activities and (2) develop and implement a plan for restoration of such injured resources. The federal trustees are designated pursuant to the National Contingency Plan, 40 CFR Section 300.600 and Executive Order 12777. State trustees for Texas are designated by the Governor of Texas pursuant to the National Contingency Plan, 40 CFR Section 300.605. The natural resources trustees (''Trustees'') under OPA for this Incident are the United States Department of Commerce, acting through the National Oceanic and Atmospheric Administration (''NOAA''); the Texas General Land Office (''TGLO''); the Texas Commission on Environmental Quality (''TCEQ''); and the Texas Parks and Wildlife Department (''TPWD''). Kirby is the Responsible Party (''RP'') for the Incident. The Trustees are coordinating with representatives of the RP on Natural Resource Damage Assessment (''NRDA'') activities.

The Trustees began the Preassessment Phase of the NRDA, in accordance with 15 CFR 990.40, to determine if they had jurisdiction to pursue restoration under OPA, and, if so, whether it was appropriate to do so. During the Preassessment Phase, the Trustees collected and analyzed the following: (1) Data reasonably expected to be necessary to make a determination of jurisdiction or a determination to conduct restoration planning, (2) ephemeral data (*i.e.,* environmental data collected in the immediate aftermath of the spill), and (3) other assessment data.

The NRDA Regulations under OPA, 15 CFR part 990 (''NRDA regulations''), provide that the Trustees are to prepare a Notice of Intent to Conduct Restoration Planning (''notice'') if they (1) determine certain conditions have been met, and if they decide to (2) quantify the injuries to natural resources and (3) develop a restoration plan.

This notice is to announce, pursuant to 15 CFR 990.44, that the Trustees, having collected and analyzed data, intend to proceed with restoration planning actions to address injuries to natural resources resulting from the Incident. The purpose of this restoration planning effort is to evaluate and select restoration actions to compensate the public for the natural resource injuries resulting from the Incident.

Determination of Jurisdiction

The Trustees have made the following findings pursuant to 15 CFR 990.41:

a. The rupture of the oil storage tanks on Kirby's barge 30015T on May 10, 2019, resulted in a discharge of oil into and upon navigable waters of the United States, including the Houston Ship Channel and Galveston Bay, as well as adjoining shorelines. Such occurrence constitutes an ''Incident'' within the meaning of 15 CFR 930.30.

b. The Incident was not permitted pursuant to federal, state, or local law; was not from a public vessel; and was not from an onshore facility subject to the Trans-Alaska Pipeline Authority Act, 43 U.S.C. 1651 *et seq.*

c. Natural resources under the trusteeship of the Trustees have been injured as a result of the Incident. Chemical components of the reformate discharged from Kirby barge 30015T are known to be harmful to marine and coastal organisms and habitat that were exposed to the oil. Accordingly, the discharged oil has had an adverse effect on the natural resources in Galveston Bay and its adjoining shorelines and impaired the services, which those resources provide.

Documents in the Administrative Record contain more information regarding the specific studies, observations, analyses, etc., by which the Trustees reached this determination.

As a result of the foregoing determinations, the Trustees have jurisdiction to pursue restoration under the OPA.

Determination To Conduct Restoration Planning

The Trustees have determined, pursuant to 15 CFR 990.42(a), that: a. Observations and data collected pursuant to 15 CFR 990.43 (including dead fish and invertebrates exposed to reformate; information regarding shoreline beaches, and subtidal habitats and other habitats affected by oil or response activities) demonstrate that injuries to natural resources have resulted from the Incident. Immediately following the Incident, the Trustees, in cooperation with the RP, identified several categories of impacted and potentially impacted resources, including marine mammals, fish, invertebrates, oysters, shoreline and subtidal habitats, and the water column, as well as effects to human use/recreation resulting from impacts on these natural resources. The Trustees then began conducting activities to evaluate injuries and potential injuries within these categories. More information on these resource categories is available in the Administrative Record, including information gathered during the Preassessment Phase.

b. Spill response actions did not address all injuries resulting from the Incident to the extent that restoration would not be necessary. Although response actions were initiated soon after the spill, the nature and location of the discharge prevented recovery of all of the oil and precluded prevention of injuries to some natural resources. It is anticipated that injured natural resources will eventually return to baseline levels (the condition they would have been in had it not been for the Incident), but interim losses have occurred or have likely occurred and will continue until a return to baseline is achieved.

Feasible compensatory restoration actions exist to address injuries resulting from the Incident. To conduct restoration planning, the Trustees have reviewed a number of restoration options in Galveston Bay and its adjoining shoreline that could potentially be implemented to compensate for interim losses resulting from the Incident. In addition, assessment procedures such as Habitat Equivalency Analysis are available to scale the appropriate amount of compensatory restoration required to offset ecological service losses resulting from this Incident. The Trustees will work cooperatively with local governmental agencies and non-governmental organizations to identify a suite of potential restoration projects commensurate with the injuries sustained due to the spill. The public may also send restoration project ideas to the Trustees (**FOR FURTHER INFORMATION** section for contacts). It is the goal of the Trustees to select restoration with a strong nexus to the spill.

During the Restoration Planning Phase, the Trustees evaluate potential projects, determine the scale of restoration actions needed to make the environment and the public whole, and release a draft Damage Assessment and Restoration Plan for public review and comment.

Based upon information in the Administrative Record and the foregoing determinations, the Trustees intend to proceed with the Restoration Planning Phase for this Incident.

Opportunity To Comment

Pursuant to 15 CFR 990.14(d), the Trustees seek public involvement in restoration planning for this Incident through the solicitation of restoration ideas and public review of the Administrative Record. The Trustees also intend to seek public comment on a draft Damage Assessment and

Restoration Plan after it has been prepared.

Administrative Record

The Trustees have opened an Administrative Record in compliance with 15 CFR 990.45. The Administrative Record will include documents considered by the Trustees during the Preassessment, and Restoration Planning Phases of the NRDA performed in connection with the Incident. The Administrative Record will be augmented with additional information over the course of the NRDA process.

The Administrative Record may be viewed at the following website: *https://www.diver.orr.noaa.gov/web/guest/diver-admin-record/12302.*

Scott Lundgren,

Director, Office of Response and Restoration, National Ocean Service, National Oceanic and Atmospheric Administration.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB208]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Army Corps of Engineers Debris Dock Replacement Project, Sausalito, California

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to the U.S. Army Corps of Engineers (ACOE) to incidentally harass, by Level A and Level B harassment only, marine mammals during construction activities associated with the Debris Dock Replacement Project in Sausalito, California.

DATES: This authorization is effective from September 1, 2021 through August 31, 2022.

FOR FURTHER INFORMATION CONTACT: Dwayne Meadows, Ph.D., Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth.

The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On March 17, 2021, NMFS received an application from ACOE requesting an IHA to take small numbers of seven species of marine mammals incidental to pile driving associated with the Debris Dock Replacement Project. The application was deemed adequate and complete on May 20, 2021. The ACOE's request is for take of a small number of these species by Level A or Level B harassment. Neither the ACOE nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of the Specified Activity

Overview

The purpose of the project is to replace the existing decaying dock and other onshore infrastructure used to move marine debris collected from San Francisco Bay onto land for disposal. The existing dock will be removed and replaced. The work will involve impact hammering 31 24-inch diameter concrete deck support piles and 17 14-inch diameter timber fender piles for the replacement dock and removal of the decayed dock by cutting or otherwise removing 31 18-inch diameter concrete deck support piles and 17 14-inch diameter timber fender piles. The ACOE recently informed us that three of the 24-inch diameter concrete piles may be replaced with 18-inch diameter concrete piles, but we analyzed the more conservative case of all 24-inch diameter concrete piles. This construction work will take no more than 26 days of in-water pile work. A detailed description of the planned project is provided in the **Federal Register** notice for the proposed IHA (86 FR 28768; May 28, 2021). Since that time, no changes have been made to the planned activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

The pile driving/removal can result in take of marine mammals from sound in the water which results in behavioral harassment or auditory injury.

In summary, the project period includes 10 days of pile removal and 16 days of pile installation activities for which incidental take authorization is requested.

TABLE 1—SUMMARY OF PILE DRIVING AND REMOVAL ACTIVITIES

Method	Pile type	Number of piles	Minutes/strikes per pile	Piles per day	Duration (days)
Cutting	18-inch concrete	31	5 min	10	7
Cutting	14-inch timber	17	5 min	10	3
Impact Driving	24-inch concrete	31	1,000 strikes	10	10

TABLE 1—SUMMARY OF PILE DRIVING AND REMOVAL ACTIVITIES—Continued

Method	Pile type	Number of piles	Minutes/strikes per pile	Piles per day	Duration (days)
Impact Driving	14-inch timber	17	1,000 strikes	10	6
Totals		96			26

Mitigation, monitoring, and reporting measures are described in detail later in this document (please see Mitigation and Monitoring and Reporting).

Comments and Responses

A notice of NMFS's proposal to issue an IHA to the ACOE was published in the **Federal Register** on May 28, 2021 (86 FR 28768). That notice described, in detail, the ACOE's activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. During the 30-day public comment period, NMFS received public comment from one commenter. The U.S. Geological Survey noted they have ''no comment at this time''.

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SARs; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*https://www.fisheries.noaa.gov/find-species*).

Table 2 lists all species with expected potential for occurrence in the project area in San Francisco Bay and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2020). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS's U.S. Pacific SARs and draft SARs (*e.g.,* Caretta *et al.,* 2020a and b).

TABLE 2—SPECIES THAT SPATIALLY CO-OCCUR WITH THE ACTIVITY TO THE DEGREE THAT TAKE IS REASONABLY LIKELY TO OCCUR

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Eschrichtiidae:						
Gray Whale	*Eschrichtius robustus*	Eastern North Pacific	-, -, N	26,960 (0.05, 25,849, 2016).	801	138
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae:						
Bottlenose Dolphin	*Tursiops truncatus*	California Coastal	-, -, N	453 (0.06, 346, 2011)	2.7	>2.0
Family Phocoenidae (porpoises):						
Harbor porpoise	*Phocoena phocoena*	San Francisco/Russian River	-, -, N	9,886 (0.51, 2019)	66	0
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions):						
California Sea Lion	*Zalophus californianus*	United States	-, -, N	257,606 (N/A, 233,515, 2014).	14,011	>321
Northern fur seal	*Callorhinus ursinus*	California	-, D, N	14,050 (N/A, 7,524, 2013).	451	1.8
		Eastern North Pacific	-, D, N	620,660 (0.2, 525,333, 2016).	11,295	399
Family Phocidae (earless seals):						
Northern elephant seal	*Mirounga angustirostris*	California Breeding	-, -, N	179,000 (N/A, 81,368, 2010).	4,882	8.8

TABLE 2—SPECIES THAT SPATIALLY CO-OCCUR WITH THE ACTIVITY TO THE DEGREE THAT TAKE IS REASONABLY LIKELY TO OCCUR—Continued

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Harbor seal	*Phoca vitulina*	California	-, -, N	30,968 (N/A, 27,348, 2012).	1,641	43

[1]—Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2]—NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance.

[3]—These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual Mortality/Serious Injury (M/SI) often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

Harbor seal, California sea lion, bottlenose dolphin and Harbor porpoise spatially co-occur with the activity to the degree that take is reasonably likely to occur, and we have proposed authorizing take of these species. For gray whale, northern fur seal and northern elephant seal, occurrence is such that take is possible, and we have proposed authorizing take of these species also.

A detailed description of the of the species likely to be affected by the project, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (86 FR 28768; May 28, 2021); since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please also refer to NMFS' website (*https://www.fisheries.noaa.gov/find-species*) for generalized species accounts.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of underwater noise from the ACOE's construction activities have the potential to result in behavioral harassment of marine mammals in the vicinity of the survey area. The notice of proposed IHA (86 FR 28768; May 28, 2021) included a discussion of the effects of anthropogenic noise on marine mammals and the potential effects of underwater noise from the ACOE's construction on marine mammals and their habitat. That information and analysis is incorporated by reference into this final IHA determination and is not repeated here; please refer to the notice of proposed IHA (86 FR 28768; May 28, 2021).

Estimated Take

This section provides an estimate of the number of incidental takes authorized through this IHA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would primarily be by Level B harassment, as use of the acoustic source (*i.e.,* vibratory or impact pile driving) has the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) to result for pinnipeds and harbor porpoise because predicted auditory injury zones are larger. The mitigation and monitoring measures are expected to minimize the severity of the taking to the extent practicable.

As described previously, no mortality is anticipated or authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Due to the lack of marine mammal density, NMFS relied on local occurrence data and group size to estimate take for some species. Below, we describe the factors considered here in more detail and present the proposed take estimate.

Acoustic Thresholds

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above

received levels of 120 dB re 1 microPascal (μPa) (root mean square (rms)) for continuous (*e.g.,* vibratory pile-driving) and above 160 dB re 1 μPa (rms) for non-explosive impulsive (*e.g.,* impact pile driving) or intermittent (*e.g.,* scientific sonar) sources.

The ACOE's proposed activity includes the use of continuous (underwater chainsaw and pile clippers) and impulsive (impact pile-driving) sources, and therefore the 120 and 160 dB re 1 μPa (rms) thresholds are applicable.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). The ACOE's activity includes the use of impulsive (impact pile-driving) and non-impulsive (pile cutting methods) sources.

These thresholds are provided in Table 3. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

TABLE 3—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	*Cell 2:* $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	*Cell 4:* $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	*Cell 6:* $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	*Cell 8:* $L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	*Cell 10:* $L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μPa, and cumulative sound exposure level (L_E) has a reference value of 1μPa^2s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript "flat" is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds, which include source levels and transmission loss coefficient.

The sound field in the project area is the existing background noise plus additional construction noise from the proposed project. Marine mammals are expected to be affected via sound generated by the primary components of the project (*i.e.,* impact pile driving, pile clippers and underwater chainsaws).

In order to calculate distances to the Level A harassment and Level B harassment sound thresholds for the methods and piles being used in this project, NMFS used acoustic monitoring data from other locations to develop source levels for the various pile types, sizes and methods (see Table 4). Data for the pile clippers and underwater chainsaws come from data gathered at U.S. Navy projects in San Diego Bay (NAVFAC SW, 2020), the source levels used are from the averages of the maximum source levels measured, a somewhat more conservative measure than the median sound levels we typically use. The source level for an underwater chainsaw is 150 db RMS and the source level for a large pile clipper is 161 dB RMS (NAVFAC SW, 2020). Because the ACOE's as yet unhired contractor has not decided which of the various pile removal methods it will use, we only use a worst-case scenario of operation using the loudest sound producing method (large pile clippers) to consider the largest possible harassment zones and estimated take.

TABLE 4—PROJECT SOUND SOURCE LEVELS

Method	Pile type	Estimated noise level	Source
Cutting	18-inch concrete	161 dB RMS	NAVFAC SW 2020.
Cutting	14-inch timber	161 dB RMS	NAVFAC SW 2020.
Impact Driving	24-inch concrete	159 dB SEL; 184 dB Peak	Illingworth and Rodkin, Inc., 2019.
Impact Driving	14-inch timber	155 dB SEL; 175 dB Peak	Table I.2–3 (CalTrans 2015).

Note: SEL = single strike sound exposure level; dB Peak = peak sound level; RMS = root mean square. Impact driving source levels reduced by 5 dB to account for use of bubble curtain.

Level B Harassment Zones

Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

TL = B * Log10 (R1/R2)

where:

TL = transmission loss in dB
B = transmission loss coefficient; for practical spreading equals 15
R1 = the distance of the modeled SPL from the driven pile, and
R2 = the distance from the driven pile of the initial measurement

The recommended TL coefficient for most nearshore environments is the practical spreading value of 15. This value results in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions, which is the most appropriate assumption for the ACOE's proposed activity in the absence of specific modelling.

The ACOE determined underwater noise would fall below the behavioral effects threshold of 160 dB RMS for impact driving at 22 m and the 120 dB rms threshold for pile cutting at 5,412 m. It should be noted that based on the bathymetry and geography of San Francisco Bay, sound will not reach the full distance of the Level B harassment isopleths in all directions.

Level A Harassment Zones

When the NMFS Technical Guidance (2016) was published, in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which may result in some degree of overestimate of take by Level A harassment. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. For stationary sources such as impact pile driving or removal using any of the methods discussed above, NMFS User Spreadsheet predicts the closest distance at which, if a marine mammal remained at that distance the whole duration of the activity, it would not incur PTS. We used the User Spreadsheet to determine the Level A harassment isopleths. Inputs used in the User Spreadsheet or models are reported in Table 1 and the resulting isopleths are reported in Table 5 for each of the construction methods and pile types.

TABLE 5—LEVEL A AND LEVEL B ISOPLETHS (METERS) FOR EACH PILE TYPE AND METHOD

Method	Pile type	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocids	Otariids	Level B
Cutting	18-inch concrete	6	0.5	8.9	3.7	0.3	5412
Cutting	14-inch timber	6	0.5	8.9	3.7	0.3	5412
Impact Driving	24-inch concrete	116.4	4.1	138.7	62.3	4.5	22
Impact Driving	14-inch timber	63	2.2	75.1	33.7	2.5	22

Marine Mammal Occurrence and Take Calculation and Estimation

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations. Here we describe how the information provided above is brought together to produce a quantitative take estimate.

Bottlenose Dolphin

Density data for this species in the project vicinity do not exist. San Francisco Oakland Bay Bridge (SFOBB) project monitoring showed two observations of this species over 6 days of monitoring in 2017 (CalTrans 2018). One common bottlenose dolphin is sighted with regularity near Alameda (GGCR 2016). Based on the regularity of the sighting in Alameda and the SFOBB observations of approximately 0.33 dolphin a day, we authorize the Level B harassment take equivalent to 0.33 dolphins per day for the 26 proposed days of the project, or 9 common bottlenose dolphin (Table 6). Because the Level A harassment zones are relatively small and we believe the Protected Species Observer (PSO) will be able to effectively monitor the Level A harassment zones, we do not authorize take by Level A harassment of bottlenose dolphins.

Harbor Porpoise

Density data for this species from SFOBB monitoring was 0.17/km^2 (CalTrans 2018). Based on the different pile types and methods there are three different sized ensonified areas to be considered to estimate Level B harassment take (Table 8). Multiplication of the above density times the corresponding ensonified area and duration, summing the results for the three methods, and subtracting the overlap of Level A take (below) to avoid double-counting of take, leads to authorized Level B harassment take of 21 harbor porpoise (Table 6).

Similarly, calculating expected Level A harassment take as density times the corresponding Level A harassment ensonified area and duration for each method results in an estimate that less than one harbor porpoise may enter a Level A harassment zone during the project (see Table 14 of application). Given the relatively high density and larger size of the Level A isopleths for harbor porpoises (Table 5, high-frequency cetaceans) we consider Level A harassment take is a possibility. However, we recognize that harbor porpoises travel in groups of up to 10 individuals and can be quick and somewhat cryptic, so there is potential that underwater mammals may go undetected before spotted in the Level A harassment and shutdown zone. Based on this observation we authorize Level A harassment take of 2 harbor porpoise.

California Sea Lion

Density data for this species from SFOBB monitoring was 0.16/km^2 (CalTrans 2018). Based on the different pile types and methods there are three different sized ensonified areas to be considered to estimate Level B harassment take (Table 7). Multiplication of the above density times the corresponding ensonified area and duration, and summing the results for the three methods, and subtracting the overlap of Level A take (below) to avoid double-counting of take, leads to authorized Level B harassment take of 20 California sea lions (Table 6).

Similarly, calculating expected Level A harassment take as density times the corresponding Level A harassment ensonified area and duration for each method results in an estimate that less than one California sea lion will enter a Level A harassment zone (see Table 13

of application). Given the relatively high density and behavior of California sea lions we consider Level A harassment take is a possibility. Based on this observation we authorize Level A harassment take of 2 California sea lions.

Northern Fur Seal

Density data for this species in the project vicinity do not exit. SFOBB monitoring showed no observations of this species (CalTrans 2018). None were observed for the Treasure Island Ferry Dock project in 2019 (Matt Osowski, personal communication). The Marine Mammal Center rescues about five northern fur seals in a year, and they occasionally rescue them from Yerba Buena Island and Treasure Island (TMMC, 2019). To be conservative we authorize Level B harassment take of three northern fur seals. Because the Level A harassment zones are relatively small and we believe the Protected Species Observer (PSO) will be able to effectively monitor the Level A harassment zones, and the species is rare, we do not authorize take by Level A harassment of northern fur seals.

Northern Elephant Seal

Density data for this species in the project vicinity do not exist. SFOBB monitoring showed no observations of this species (CalTrans 2018). None were observed for the Treasure Island Ferry Dock project in 2019 (Matt Osowski, personal communication). Out of the approximately 100 annual northern elephant seal strandings in San Francisco Bay, approximately 10 individuals strand nearby at Yerba Buena or Treasure Islands each year (TMMC, 2020). Therefore, we authorize the Level B harassment take of 5 northern elephant seals. Because the Level A harassment zones are relatively small and we believe the PSO will be able to effectively monitor the Level A harassment zones, and the species is rare, we do not authorize take by Level A harassment of northern elephant seals.

Harbor Seal

Density data for this species from SFOBB monitoring was 3.92/km^2 (CalTrans 2018). Based on the different pile types and methods there are three different sized ensonified areas to be considered to estimate Level B harassment take (Table 7). Multiplication of the above density times the corresponding ensonified area and duration, summing the results for the three methods, and subtracting the overlap of Level A take (below) to avoid double-counting of take, leads to authorized Level B harassment take of 527 harbor seals (Table 6).

Similarly, calculating expected Level A harassment take as density times the corresponding Level A harassment ensonified area and duration for each method results in an estimate that less than one harbor seal may enter a Level A harassment zone during the project (see Table 12 of application). Given the relatively high density and size of the Level A isopleths for harbor seals (Table 5, phocid pinnipeds) we consider Level A harassment take is a possibility. We recognize that harbor seals can occur in moderate and rarely large size groups and can be quick and somewhat cryptic, so there is potential that underwater mammals may go undetected before spotted in the Level A harassment and shutdown zone. Based on this observation we authorize Level A harassment take of 2 harbor seals.

Gray Whale

Density data for this species in the project vicinity do not exist. SFOBB monitoring showed no observations of this species (CalTrans 2018). None were observed for the Treasure Island Ferry Dock project in 2019 (Matt Osowski, personal communication). Approximately 12 gray whales were stranded in San Francisco Bay from January to May of 2019 (TMMC, 2019) and four stranded in the vicinity on one week in 2021 (*https://www.washingtonpost.com/science/2021/04/11/whales-sf-bay-beaches/*). Because recent observations are not well understood, Sausalito sits near the entrance to the bay, and as a conservative measure, we authorize Level B harassment take of 2 gray whales. Because the Level A harassment zones are relatively small and we believe the PSO will be able to effectively monitor the Level A harassment zones, and the species is rare, we do not authorize take by Level A harassment of gray whales.

TABLE 6—AUTHORIZED AMOUNT OF TAKING, BY LEVEL A HARASSMENT AND LEVEL B HARASSMENT, BY SPECIES AND STOCK AND PERCENT OF TAKE BY STOCK

Common name	Scientific name	Stock	Level A harassment	Level B harassment	Percent of stock
Harbor seal	(*Phoca vitulina*)	California Stock	2	527	1.7
Harbor porpoise	(*Phocoena phocoena*)	San Francisco—Russian River Stock.	2	21	0.3
California sea lion	(*Zalophus californianus*)	U.S. Stock	2	20	<0.1
Gray whale	(*Eschrichtius robustus*)	Eastern North Pacific Stock	0	2	<0.1
Bottlenose dolphin	(*Tursiops truncatus*)	California Coastal Stock	0	9	2
Northern elephant seal	(*Mirounga angustirostris*)	California Breeding Stock	0	5	<0.1
Northern fur seal	(*Callorhinus ursinus*)	California and Eastern North Pacific Stocks.	0	3	<0.1

TABLE 7—CALCULATIONS TO ESTIMATE LEVEL B HARASSMENT TAKE

	Harbor Seal	Sea Lion	Harbor Porpoise
SFOBB Species density (animals/square kilometer (km^2))	3.96	0.16	0.17
Days of Pile Driving/Cutting			
24-inch Concrete	10	10	10
14-inch Timber	6	6	6
Pile Cutting	10	10	10
Area of Isopleth in km^2			
24-inch Concrete	0.00151	0.00151	0.00151
14-inch Timber	0.00151	0.00151	0.00151

TABLE 7—CALCULATIONS TO ESTIMATE LEVEL B HARASSMENT TAKE—Continued

	Harbor Seal	Sea Lion	Harbor Porpoise
Pile Cutting	13.3456	13.3456	13.3456
Per day take Level B			
24-inch Concrete	0.006	0.0002	0.0003
14-inch Timber	0.006	0.0002	0.0003
Pile Cutting	52.8486	2.1353	2.2688
Total Level B Take Calculated	528.58	21.36	22.69
Total Level B Take Estimated	529	22	23

Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned); and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

The following mitigation measures are in the IHA:

- Avoid direct physical interaction with marine mammals during construction activity. If a marine mammal comes within 10 m of such activity, operations must cease and vessels must reduce speed to the minimum level required to maintain steerage and safe working conditions;
- Conduct training between construction supervisors and crews and the marine mammal monitoring team and relevant ACOE staff prior to the start of all pile driving activity and when new personnel join the work, so that responsibilities, communication procedures, monitoring protocols, and operational procedures are clearly understood;
- Pile driving activity must be halted upon observation of either a species for which incidental take is not authorized or a species for which incidental take has been authorized but the authorized number of takes has been met, entering or within the harassment zone;
- The ACOE will establish and implement the shutdown zones indicated in Table 9. The purpose of a shutdown zone is generally to define an area within which shutdown of the activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). Shutdown zones typically vary based on the activity type and marine mammal hearing group. The ACOE wishes to simplify implementation of the relatively small shutdown zones and has proposed using a single shutdown zone distance for each activity rather than separate zones for each hearing group as we minimally require typically. Therefore the shutdown zones in Table 8 are based on the largest possible Level A harassment zones calculated from the isopleths in Table 6.
- Employ PSOs and establish monitoring locations as described in the application and Section 5 of the IHA. The Holder must monitor the project area to the maximum extent possible based on the required number of PSOs, required monitoring locations, and environmental conditions for all pile driving and removal one PSO must be used. The PSO will be stationed as close to the activity as possible;
- The placement of the PSO during all pile driving and removal and drilling activities will ensure that the entire shutdown zone is visible during pile installation. Should environmental conditions deteriorate such that marine mammals within the entire shutdown zone will not be visible (*e.g.,* fog, heavy rain), pile driving and removal must be delayed until the PSO is confident marine mammals within the shutdown zone could be detected;
- Monitoring must take place from 30 minutes prior to initiation of pile driving activity through 30 minutes post-completion of pile driving activity. Pre-start clearance monitoring must be conducted during periods of visibility sufficient for the lead PSO to determine the shutdown zones clear of marine mammals. Pile driving may commence following 30 minutes of observation when the determination is made;
- If pile driving is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zone or 15 minutes have passed without re-detection of the animal;
- The ACOE must use soft start techniques when impact pile driving. Soft start requires contractors to provide an initial set of three strikes at reduced energy, followed by a 30-second waiting period, then two subsequent reduced-energy strike sets. A soft start must be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer;
- Use a bubble curtain during impact pile driving and ensure that it is operated as necessary to achieve optimal performance, and that no reduction in performance may be

attributable to faulty deployment. At a minimum, the ACOE must adhere to the following performance standards: The bubble curtain must distribute air bubbles around 100 percent of the piling circumference for the full depth of the water column. The lowest bubble ring must be in contact with the substrate for the full circumference of the ring, and the weights attached to the bottom ring shall ensure 100 percent substrate contact. No parts of the ring or other objects shall prevent full substrate contact. Air flow to the bubblers must be balanced around the circumference of the pile.

TABLE 8—SHUTDOWN ZONES (METERS) FOR EACH PILE TYPE AND METHOD

Pile size, type, and method	Shutdown zone
24-inch concrete, impact	140
14-inch timber, impact	80
14 and 18-inch pile cutting ...	10

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has determined that the mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

Visual Monitoring

- Monitoring must be conducted by qualified, NMFS-approved PSOs, in accordance with the following: PSOs must be independent (*i.e.,* not construction personnel) and have no other assigned tasks during monitoring periods. At least one PSO must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization. Other PSOs may substitute other relevant experience, education (degree in biological science or related field), or training. PSOs must be approved by NMFS prior to beginning any activity subject to this IHA.
- PSOs must record all observations of marine mammals as described in the Section 5 of the IHA, regardless of distance from the pile being driven. PSOs shall document any behavioral reactions in concert with distance from piles being driven or removed;

PSOs must have the following additional qualifications:

- Ability to conduct field observations and collect data according to assigned protocols;
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior; and
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary;
- The ACOE must establish the following monitoring locations. For all pile driving and cutting activities, a minimum of one PSO must be assigned to the active pile driving or cutting location to monitor the shutdown zones and as much of the Level B harassment zones as possible.

Reporting

A draft marine mammal monitoring report will be submitted to NMFS within 90 days after the completion of pile driving and removal activities, or 60 days prior to a requested date of issuance of any future IHAs for projects at the same location, whichever comes first. The report will include an overall description of work completed, a narrative regarding marine mammal sightings, and associated PSO data sheets. Specifically, the report must include:

- Dates and times (begin and end) of all marine mammal monitoring;
- Construction activities occurring during each daily observation period, including the number and type of piles driven or removed and by what method (*i.e.,* impact or cutting) and the total equipment duration for cutting for each pile or total number of strikes for each pile (impact driving);
- PSO locations during marine mammal monitoring;
- Environmental conditions during monitoring periods (at beginning and end of PSO shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance;
- Upon observation of a marine mammal, the following information: Name of PSO who sighted the animal(s) and PSO location and activity at time of sighting; Time of sighting; Identification of the animal(s) (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified), PSO confidence in

identification, and the composition of the group if there is a mix of species; Distance and bearing of each marine mammal observed relative to the pile being driven for each sighting (if pile driving was occurring at time of sighting); Estimated number of animals (min/max/best estimate); Estimated number of animals by cohort (adults, juveniles, neonates, group composition, etc.); Animal's closest point of approach and estimated time spent within the harassment zone; Description of any marine mammal behavioral observations (*e.g.,* observed behaviors such as feeding or traveling), including an assessment of behavioral responses thought to have resulted from the activity (*e.g.,* no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching);

- Number of marine mammals detected within the harassment zones, by species; and
- Detailed information about any implementation of any mitigation triggered (*e.g.,* shutdowns and delays), a description of specific actions that ensued, and resulting changes in behavior of the animal(s), if any.

If no comments are received from NMFS within 30 days, the draft final report will constitute the final report. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments.

Reporting Injured or Dead Marine Mammals

In the event that personnel involved in the construction activities discover an injured or dead marine mammal, the IHA-holder must immediately cease the specified activities and report the incident to the Office of Protected Resources (OPR) (*PR.ITP.MonitoringReports@noaa.gov*), NMFS and to West Coast Regional Stranding Coordinator as soon as feasible. If the death or injury was clearly caused by the specified activity, the ACOE must immediately cease the specified activities until NMFS is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of the IHA. The IHA-holder must not resume their activities until notified by NMFS. The report must include the following information:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and
- General circumstances under which the animal was discovered.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

Pile driving and removal activities have the potential to disturb or displace marine mammals. Specifically, the project activities may result in take, in the form of Level A and Level B harassment from underwater sounds generated from pile driving and removal. Potential takes could occur if individuals are present in the ensonified zone when these activities are underway.

The takes from Level A and Level B harassment would be due to potential behavioral disturbance, TTS, and PTS. No mortality is anticipated given the nature of the activity and measures designed to minimize the possibility of injury to marine mammals. The potential for harassment is minimized through the construction method and the implementation of the planned mitigation measures (see Mitigation section).

The Level A harassment zones identified in Table 5 are based upon an animal exposed to impact pile driving multiple piles per day. Considering duration of impact driving each pile (up to 20 minutes) and breaks between pile installations (to reset equipment and move pile into place), this means an animal would have to remain within the area estimated to be ensonified above the Level A harassment threshold for multiple hours. This is highly unlikely given marine mammal movement throughout the area. If an animal was exposed to accumulated sound energy, the resulting PTS would likely be small (*e.g.,* PTS onset) at lower frequencies where pile driving energy is concentrated, and unlikely to result in impacts to individual fitness, reproduction, or survival.

The nature of the pile driving project precludes the likelihood of serious injury or mortality. For all species and stocks, take would occur within a limited, confined area (north-central San Francisco Bay including Richardson's Bay) of the stock's range. Level A and Level B harassment will be reduced to the level of least practicable adverse impact through use of mitigation measures described herein. Further the amount of take authorized is extremely small when compared to stock abundance.

Behavioral responses of marine mammals to pile driving at the project site, if any, are expected to be mild and temporary. Marine mammals within the Level B harassment zone may not show any visual cues they are disturbed by activities (as noted during modification to the Kodiak Ferry Dock) or could become alert, avoid the area, leave the area, or display other mild responses that are not observable such as changes in vocalization patterns. Given the short duration of noise-generating activities per day and that pile driving and removal would occur across nine months, any harassment would be temporary. There are no other areas or times of known biological importance for any of the affected species.

In addition, it is unlikely that minor noise effects in a small, localized area of habitat would have any effect on the stocks' ability to recover. In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activities will have only

minor, short-term effects on individuals. The specified activities are not expected to impact rates of recruitment or survival and will therefore not result in population-level impacts.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized;
- Authorized Level A harassment would be very small amounts and of low degree;
- No important habitat areas have been identified within the project area;
- For all species, San Francisco Bay is a very small and peripheral part of their range;
- The ACOE would implement mitigation measures such as bubble curtains, soft-starts, and shut downs; and
- Monitoring reports from similar work in San Francisco Bay have documented little to no effect on individuals of the same species impacted by the specified activities.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The amount of take NMFS authorizes is below one third of the estimated stock abundance of all species (in fact, take of individuals is less than 10 percent of the abundance of the affected stocks, see Table 6). This is likely a conservative estimate because they assume all takes are of different individual animals which is likely not the case. Some individuals may return multiple times in a day, but PSOs would count them as separate takes if they cannot be individually identified.

Based on the analysis contained herein of the proposed activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

Section 7(a)(2) of the ESA (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the West Coast Region Protected Resources Division Office, whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is authorized or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

Authorization

NMFS has issued an IHA to the ACOE for the potential harassment of small numbers of seven marine mammal species incidental to the Debris Dock Replacement project in Sausalito, CA, provided the previously mentioned mitigation, monitoring and reporting requirements are followed.

Dated: July 8, 2021.

Catherine Marzin,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–14980 Filed 7–13–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB199]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Summer Flounder, Scup, and Black Sea Bass Advisory Panel will hold a public webinar meeting, jointly with the Atlantic States Marine Fisheries Commission's Summer Flounder, Scup, and Black Sea Bass Advisory Panel.

DATES: The meeting will be held on Thursday, July 29, 2021, from 3 p.m. until 5 p.m.

ADDRESSES: The meeting will be held via webinar and connection information can be accessed at: *https://www.mafmc.org/council-events/2021/joint-sfsbsb-ap-meeting-jul29.*

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive

Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Mid-Atlantic Fishery Management Council's Summer Flounder, Scup, and Black Sea Bass Advisory Panel will meet via webinar jointly with the Atlantic States Marine Fisheries Commission's Summer Flounder, Scup, and Black Sea Bass Advisory Panel. The purpose of this meeting is to review recent management track stock assessment information for summer flounder, scup, and black sea bass, and to review the recommendations of the Scientific and Statistical Committee and Monitoring Committee for 2022–23 catch and landings limits for all three species. The advisory panel will also be asked to provide input on 2022 commercial management measures such as possession limits, minimum sizes, and gear requirements.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Kathy Collins, (302) 526–5253, at least 5 days prior to the meeting date.

Dated: July 9, 2021.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2021–14941 Filed 7–13–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB197]

Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of SEDAR 74 Data Scoping Webinar for Gulf of Mexico red snapper.

SUMMARY: The SEDAR 74 assessment of Gulf of Mexico red snapper will consist of a Data workshop, a series of assessment webinars, and a Review workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 74 Data Scoping Webinar will be held on August 13, 2021, from 10 a.m. to 12 p.m., Eastern.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571–4366; email: *Julie.neer@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop; (2) Assessment Process utilizing webinars; and (3) Review Workshop. The product of the Data Workshop is a data report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion in the data scoping webinar are as follows:

- Participants will discuss what data may be available for use in the assessment of Gulf of Mexico red snapper.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 10 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

Authority: 16 U.S.C.1801 *et seq.*

Dated: July 9, 2021.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2021–14940 Filed 7–13–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Science Advisory Board

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of renewal of charter.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (FACA), and after consultation with the General Services Administration, the Chief Financial Officer and Assistant Secretary for Administration has determined that renewal of the NOAA Science Advisory Board is in the public interest. The committee has been a successful undertaking and has provided advice to the Under Secretary for Oceans and Atmosphere on strategies for research, education, and application of science to operations and information services. The committee will continue to provide such advice and recommendations in the future. The structure and responsibilities of the

Committee are unchanged from when it was originally established in September 1997. The Committee will continue to operate in accordance with the provisions of the Federal Advisory Committee Act.

FOR FURTHER INFORMATION CONTACT: Dr. Cynthia Decker, Executive Director, SSMC3, Room 11230, 1315 East-West Hwy., Silver Spring, MD 20910; Phone Number: 301–734–1156.

Email: *Cynthia.Decker@noaa.gov;* or visit the NOAA SAB website at *http://www.sab.noaa.gov.*

Dated: July 6, 2021.

Eric Locklear,

Acting Chief Financial Officer/CAO, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2021–14903 Filed 7–13–21; 8:45 am]

BILLING CODE 3510–KD–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Information and Regulatory Affairs (OIRA), of the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before August 13, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be submitted within 30 days of this notice's publication to OIRA, at *https://www.reginfo.gov/public/do/PRAMain.* Please find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the website's search function. Comments can be entered electronically by clicking on the ''comment'' button next to the information collection on the ''OIRA Information Collections Under Review'' page, or the ''View ICR—Agency Submission'' page. A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting *https://www.reginfo.gov/public/do/PRAMain.*

In addition to the submission of comments to *https://Reginfo.gov* as indicated above, a copy of all comments submitted to OIRA may also be submitted to the Commodity Futures Trading Commission (the ''Commission'' or ''CFTC'') by clicking on the ''Submit Comment'' box next to the descriptive entry for OMB Control No. 3038–0115, at *https://comments.cftc.gov/FederalRegister/PublicInfo.aspx.*

Or by either of the following methods:

- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments submitted to the Commission should include only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1] The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *https://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Eugene Smith, Director, Office of Proceedings, Commodity Futures Trading Commission, (202) 418–5371; email: *esmith@cftc.gov,* and refer to OMB Control No. 3038–0115.

SUPPLEMENTARY INFORMATION:

■ *Title:* Reparations Complaint, CFTC Form 30 (OMB Control No. 3038–0115). This is a request for extension of a currently approved information collection.

Abstract: Pursuant to Section 14 of the Commodity Exchange Act, members of the public may apply to the Commission to seek damages against Commission registrants for alleged violations of the Act and/or Commission regulations. The legislative intent of the Reparations program was to provide a low-cost, speedy, and effective forum for the resolution of customer complaints and to sanction individuals and firms found to have violated the Act and/or any regulations.

In 1984, the Commission promulgated Part 12 of the Commission regulations to administer Section 14. Rule 12.13 provides the standards and procedures for filing a Reparations complaint. Specifically, paragraph (b) describes the form and content requirements of a complaint. CFTC Form 30 mirrors the requirements set forth in paragraph (b).

The Commission began utilizing Form 30 in or about 1984. The form was created to assist customers, who are typically *pro se* and non-lawyers. It was also designed as a way to provide proper notice to respondents of the charges against them. This form is critical to fulfilling this policy goal.[2]

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. On May 11, 2021, the Commission published in the **Federal Register** a notice of the proposed extension of this information collection and provided 60 days for public comment, at 86 FR 25845 (''60-Day Notice''). The Commission did not receive any relevant comments on the 60-Day Notice.

Burden Statement: The respondent burden for this collection is estimated to be as follows:

Respondents/Affected Entities: Commodity futures customers.

Estimated Number of Respondents: 24.

Estimated Average Burden Hours per Respondent: 1.5.

Estimated Total Annual Burden Hours: 36.

Frequency of Collection: As applicable.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: July 9, 2021.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2021–14960 Filed 7–13–21; 8:45 am]

BILLING CODE 6351–01–P

[1] 17 CFR 145.9.

[2] The Commission plans to update its rules to include a web-based version of Form 30 as an additional option for the public to submit reparations complaints online.

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2021–HQ–0012]

Proposed Collection; Comment Request

AGENCY: Department of the Army, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the United States Military Academy (USMA) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 13, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: DoD cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name, docket number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Directorate of Admissions, U.S. Military Academy, Official Mail & Distribution Center, ATTN: Tom Tolman, Associate Director of Admissions-Support, 606 Thayer Road, USMA, NY 10996–1797 or call the Department of Army Reports clearance officer at (703) 428–6440.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: USMA Candidate Admission Procedures, OMB Control Number 0702–0060.

Needs and Uses: USMA candidates provide personal background information which allows the USMA Admissions Committee to make subjective judgments on non-academic experiences. Data is also used by USMA's Office of Institutional Research for correlation with success in graduation and military careers.

Affected Public: Individuals or Households.

Annual Burden Hours: 31,250.

Number of Respondents: 75,000.

Responses per Respondent: 1.

Annual Responses: 75,000.

Average Burden per Response: 25 minutes.

Frequency: On occasion.

Title 10, U.S.C. 4336 provides requirements for admission of candidates to the U.S. Military Academy. The U.S. Military Academy strives to motivate outstanding potential candidates to apply for admission. Once candidates are identified, USMA Admissions collects information necessary to nurture them through successful completion of the application process.

Dated: July 7, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–14916 Filed 7–13–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2021–HQ–0014]

Proposed Collection; Comment Request

AGENCY: Department of the Army, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Army & Air Force Exchange Service (The Exchange) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 13, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: DoD cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name, docket number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Army & Air Force Exchange Service, Office of the General Counsel, Compliance Division, ATTN: Teresa Schreurs, 3911 South Walton Walker Blvd., Dallas TX 75236–1598 through email to *PrivacyManager@aafes.com,* or call the Exchange Compliance Division at 800–967–6067, Option 5.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Exchange Retail Sales Transaction Customer Satisfaction Survey; OMB Control Number 0702–0130.

Needs and Uses: The information collection requirement is necessary to provide the Exchange with holistic views of customers' shopping experiences. The survey aids the Exchange's marketing directorate to address the effectiveness of providing goods and services in applicable service availability meeting the patron's wants and desires.

Affected Public: Individuals or Households.

Annual Burden Hours: 1,000.

Number of Respondents: 20,000.

Responses per Respondent: 1.

Annual Responses: 20,000.

Average Burden per Response: 3 minutes.

Frequency: On Occasion.

Respondents are authorized customers of the Army and Air Force Exchange Service, who voluntarily provide opinions or comments regarding their recent shopping experience at an Exchange facility. The survey provides valuable data used to enhance the customer's experience. If the Exchange does not receive data through the survey, the Exchange's efforts to improve the customer shopping experience would not be as effective, efficient, or useful. Customer information is vital to the efficient and effective maintenance and improvement of the Exchange operations. The survey does not collect PII data.

Dated: July 7, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2021–14919 Filed 7–13–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2021–HQ–0016]

Proposed Collection; Comment Request

AGENCY: Department of the Army, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the U.S. Army Public Health Center announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 13, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: DoD cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name, docket number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the U.S. Army Public Health Center (APHC), 8252 Blackhawk Road, ATTN: Joyce Woods, (MCHB–PHI–PMD), Aberdeen Proving Ground, MD 21010–5403, or call the Department of the Army Reports Clearance Officer at (703) 428–6440.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Application for Temporary Food Establishment; DD Form 2970; OMB Control Number 0702–0132.

Needs and Uses: The information collection requirement is necessary for the installation Preventive Medicine or Public Health Activity to evaluate a food vendor's ability to prepare and dispense safe food on the installation. The form, submitted one time by a food vendor requesting to operate a food establishment on a military installation, characterizes the types of foods, daily volume of food, supporting food equipment, and sanitary controls. Approval to operate the food establishment is determined by the installation's medical authority; the Preventive Medicine or Public Health Activity conducts an operational assessment based on the food safety criteria prescribed in the Tri-Service Food Code (TB MED 530/NAVMED P–5010–1/AFMAN 48–147_IP). Food vendors who are deemed inadequately prepared to provide safe food service are disapproved for operating on the installation.

Affected Public: Business or other for profit; Not-for-profit institutions.

Annual Burden Hours: 22.75.

Number of Respondents: 91.

Responses per Respondent: 1.

Annual Responses: 91.

Average Burden per Response: 15 minutes.

Frequency: On Occasion.

Respondents are food vendors requesting to operate a business on a military installation or solicited by an installation command or military unit through the Army and Air Force Exchange Service (AAFES), Navy Exchange (NEX), Marine Corps Exchange (MCX), Family Morale, Welfare and Recreation (FMWR), or other sponsoring entity to operate a food establishment on the military installation or Department of Defense site. If the form is not completed during the application process, the Preventive Medicine assessment can only be conducted once the operation is set up on the installation. A pre-operational inspection is conducted before the facility is authorized to initiate service to the installation. A critical food safety violation found during the pre-operational inspection results in disapproval for the facility to operate. All critical violations must be corrected in order to gain operational approval; the installation command incurs the risk of a foodborne illness outbreak if a non-compliant food establishment is authorized to operate. The vendor's application to operate is retained on file with Preventive Medicine and does not need to be resubmitted by vendors whose services are intermittent throughout the year unless the scope of the operation has changed.

Dated: July 7, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–14914 Filed 7–13–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2021–HQ–0015]

Proposed Collection; Comment Request

AGENCY: Department of the Army, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Army & Air Force Exchange Service (The Exchange) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 13, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: DoD cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name, docket number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Army & Air Force Exchange Service, Office of the General Counsel, Compliance Division, ATTN: Teresa Schreurs, 3911 South Walton Walker Blvd., Dallas, TX 75236–1598 through email to *PrivacyManager@aafes.com,* or call the Exchange Compliance Division at 800–967–6067, Option 5.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Exchange Employee Travel Files; OMB Control Number 0702–0131.

Needs and Uses: The information collection requirement is necessary to process official Permanent Change of Station (PCS) travel requests for Exchange civilian employees; to determine eligibility of the employee's dependents to travel; to obtain the necessary clearance where foreign travel is involved, including assisting individuals in applying for passports, visas, and counseling where proposed travel involves visiting or transitioning to communist countries and danger zones.

Affected Public: Individuals or Households.

Annual Burden Hours: 125.

Number of Respondents: 250.

Responses per Respondent: 1.

Annual Responses: 250.

Average Burden per Response: 30 minutes.

Frequency: On Occasion.

Respondents are Exchange employees, family members, and dependents that are authorized to engage in Exchange government travel. The completed forms are necessary to obtain this authorization and to provide the employee and their dependents with assistance to obtain visas, passports, security clearance, and other travel documents as required.

Dated: July, 7, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–14917 Filed 7–13–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2021–HQ–0013]

Proposed Collection; Comment Request

AGENCY: Department of the Army, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Army & Air Force Exchange Service (The Exchange) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 13, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: DoD cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name, docket number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Army & Air Force Exchange Service, Office of the General Counsel, Compliance Division, ATTN: Teresa Schreurs, 3911 South Walton Walker Blvd., Dallas, TX 75236–1598 through email to *PrivacyManager@aafes.com,* or call the Exchange Compliance Division at 800–967–6067, Option 5.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Exchange Identification & Privilege Card Application; Exchange Form 1100–016; OMB Control Number 0702–0129.

Needs and Uses: The information collection requirement is necessary to obtain authorization or continued authorization for patronage to Exchange associate dependents for shopping privileges.

Affected Public: Individuals or Households.

Annual Burden Hours: 262.5.

Number of Respondents: 1,050.

Responses per Respondent: 1.

Annual Responses: 1,050.

Average Burden per Response: 15 minutes.

Frequency: On Occasion.

Respondents are Exchange employee dependents who wish to become or remain eligible Exchange patrons. Exchange Form 1100–016 provides Exchange Human Resources information to verify and authorize patronage to these individuals. If approved, the individual will obtain a personalized, laminated dependent card for shopping privileges.

Dated: July 7, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–14911 Filed 7–13–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0061]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Personnel and Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 13, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: DoD cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Ms. Angela Duncan at the Department of Defense, Washington Headquarters Services, ATTN: Executive Services Directorate, Directives Division, 4800 Mark Center Drive, Suite 03F09–09, Alexandria, VA 22350–3100 or call 571–372–7574.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Family Advocacy Program (FAP): Child Abuse and Domestic Abuse Incident Reporting System; OMB Control Number 0704–0536.

Needs and Uses: This information collection provides the child abuse and domestic abuse incident data from the FAP Central Registry, as required by section 574 of the National Defense Authorization Act (NDAA) for FY 2017 (Pub. L. 114–328). In addition to meeting the Congressional requirement, this report provides critical aggregate information on the circumstances of child abuse/neglect and domestic abuse incidents, which further informs ongoing prevention and response efforts. The aggregate FAP Central Registry data derived from this information collection and submitted from each Military Service (Army, Navy, Marine Corps, and Air Force) offers a DoD-wide description of the child abuse and neglect and domestic abuse incidents that are reported to FAP. Respondents to the collection are military members and associated family members who have been referred to the installation FAP after a reported incident of family maltreatment, either domestic abuse or child maltreatment. The purpose of the collection is to determine eligibility for FAP services and to initiate a clinical record.

Affected Public: Individuals or households.

Annual Burden Hours: 16,716 hours.

Number of Respondents: 22,288.

Responses per Respondent: 1.

Annual Responses: 22,288.

Average Burden per Response: 45 minutes.

Frequency: On occasion.

Dated: July 7, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–14915 Filed 7–13–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2020–OS–0053]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

ACTION: 30–Day information collection notice.

SUMMARY: The DoD has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by August 13, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent

within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Application for a Review by the Physical Disability Board of Review; DD Form 294; OMB Control Number 0704–0453.

Type of Request: Regular.

Number of Respondents: 240.

Responses per Respondent: 1.

Annual Responses: 240.

Average Burden per Response: 45 minutes.

Annual Burden Hours: 180 hours.

Needs and Uses: The Fiscal Year 2008 National Defense Authorization Act amended Title 10, United States Code by adding Section 1554a. This provision of law directs the Secretary of Defense to establish a panel to review the disability determinations of individuals who were separated from the armed forces during the period beginning September 11, 2001 and ending on December 31, 2009 due to unfitness for duty due to a medical condition with a disability rating of 20 percent disabled or less; and were found to be not eligible for retirement. On June 27, 2008, the Department of Defense published DODI 6040.44, which provides the guidance for this process.

The DD Form 294 is the means by which former Service members that were medically separated due to a medical condition with a disability rating of 20 percent or less can request a review of their combined disability rating. Service members are responding to the information collection to ensure they receive an accurate and fair review of their disability rating. The DD Form 294, ''Application for Review by the Physical Disability Board of Review (PDBR) of the Rating Awarded Accompanying a Medical Separation from the Armed Forces of the United States'' is designed to appropriately collect the information necessary to retrieve the medical separation and the Department of Veterans Affairs records and correct military personnel and pay records.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: July 7, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–14910 Filed 7–13–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–0103]

Agency Information Collection Activities; Comment Request; Education Stabilization Fund—Emergency Assistance for Non-Public Schools (EANS) Program Recipient Annual Reporting Data Collection Form

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before September 13, 2021.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2021–SCC–0103. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208D, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Gloria Tanner, 202–453–5596.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Education Stabilization Fund—Emergency Assistance for Non-Public Schools (EANS) Program Recipient Annual Reporting Data Collection Form.

OMB Control Number: 1810–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 52.

Total Estimated Number of Annual Burden Hours: 156.

Abstract: Under the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSA Act), Public Law 116–260 (December 27, 2020), Congress first authorized the Emergency Assistance to Non-Public Schools (EANS) program to provide emergency services or assistance to non-public schools in the wake of the Coronavirus Disease 2019 (COVID–19). The American Rescue Plan Act of 2021 (ARP Act), Public Law 117–2 (March 11, 2021), authorized a second round of funding (ARP EANS) to provide services or assistance to non-public schools.

This information collection requests approval for a new collection that includes annual reporting requirements that align with the requirements of the EANS program and obtain information on how the funds were used. In accordance with the Recipient's Funding Certification and Agreements executed by EANS grantees, the Secretary may specify additional forms of reporting. In addition to reviewing the proposed ICR, ED requests stakeholders respond to the directed questions found in Attachment A.

Dated: July 9, 2021.

Kate Mullan,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2021–14964 Filed 7–13–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–0102]

Agency Information Collection Activities; Comment Request; Education Stabilization Fund—Governor's Emergency Education Relief Fund (GEER I and GEER II) Recipient Data Collection Form

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before September 13, 2021.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2021–SCC–0102. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave SW, LBJ, Room 6W208D, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Gloria Tanner, 202–453–5596.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Education Stabilization Fund—Governor's Emergency Education Relief Fund (GEER I and GEER II) Recipient Data Collection Form.

OMB Control Number: 1810–0748.

Type of Review: A revision of a currently approved collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 3,326.

Total Estimated Number of Annual Burden Hours: 20,348.

Abstract: Under the current unprecedented national health emergency, the legislative and executive branches of government have come together to offer relief to those individuals and industries affected by the COVID–19 virus under the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116–136) authorized on March 27, 2020 and expanded through the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act, and the American Rescue Plan.

The Department awards Education Stabilization Fund—Governor's Emergency Education Relief (GEER) grants to Governors (States) and analogous grants to Outlying Areas for the purpose of providing local educational agencies (LEAs), institutions of higher education (IHEs), and other education related entities with emergency assistance as a result of the coronavirus pandemic. The Department has awarded these grants to States (Governor's offices) based on a formula stipulated in the legislation. The grants are also awarded to Outlying Areas based on the same formula: (1) 60% on the basis of the State's or Outlying Area's relative population of individuals aged 5 through 24. (2) 40% on the basis of the State's relative number of children counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (ESEA). The grants are awarded to Outlying Areas based on the same formula. Data collected through this information collection will inform Department monitoring and oversight, and public reporting. This information collection requests approval for a revision to a previously approved collection that includes annual reporting requirements to comply with the requirements of the GEER program and obtain information on how the funds were used. The revisions reflect a streamlining of the approved collection form requests for additional reporting

under CRSSA. In accordance with the Recipient's Funding Certification and Agreements executed by GEER grantees, the Secretary may specify additional forms of reporting. This submission includes revisions to the GEER data collection. In addition to reviewing the proposed revisions, ED requests stakeholders respond to the directed questions found in Attachment A.

Dated: July 9, 2021.

Kate Mullan,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2021–14963 Filed 7–13–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP21–952–000.

Applicants: Cove Point LNG, LP.

Description: Compliance filing Cove Point—2021 Penalty Revenue Distribution.

Filed Date: 7/2/21.

Accession Number: 20210702–5006.

Comments Due: 5 p.m. ET 7/14/21.

Docket Numbers: RP21–953–000.

Applicants: Eastern Gas Transmission and Storage, Inc.

Description: Compliance filing EGTS—2021 Overrun and Penalty Revenue Distribution.

Filed Date: 7/2/21.

Accession Number: 20210702–5007.

Comments Due: 5 p.m. ET 7/14/21.

Docket Numbers: RP21–954–000.

Applicants: Gulf South Pipeline Company, LLC.

Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (Marathon 51754 to Spire 54176) to be effective 7/2/2021.

Filed Date: 7/2/21.

Accession Number: 20210702–5088.

Comments Due: 5 p.m. ET 7/14/21.

Docket Numbers: RP21–955–000.

Applicants: Northern Natural Gas Company.

Description: § 4(d) Rate Filing: 20210702 Negotiated Rate to be effective 7/2/2021.

Filed Date: 7/2/21.

Accession Number: 20210702–5089.

Comments Due: 5 p.m. ET 7/14/21.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 7, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–14909 Filed 7–13–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP21–471–000]

Eastern Gas Transmission and Storage, Inc.; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on June 30, 2021, Eastern Gas Transmission and Storage, Inc. (EGTS), 6603 West Broad Street, Richmond, VA 23230, filed in the above referenced docket a prior notice pursuant to Sections 157.205(b), 157.208(b), and 157.216(b) of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act, seeking authorization to abandon approximately 4,928 feet and replace approximately 400 feet of EGTS's 12-inch gas transmission pipeline known as TL–263 located in Kanawha County, West Virginia (TL–263 Abandonment Project). EGTS proposes to abandon and replace these facilities under authorities granted by its blanket certificate issued in Docket No. CP82–537–000.[1] The estimated cost for the project is approximately $500,000 all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application should be directed to Kenan Carioti, Gas Transmission Certificates Consultant, 6303 West Broad Street, Richmond, VA 23230, phone: 804–613–5221, email: *kenan.carioti@bhegts.com.*

Public Participation

There are three ways to become involved in the Commission's review of this project: You can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on September 6, 2021. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[2] any person [3] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[4] and must be submitted by

[1] 21 FERC ¶ 62,172 (1982).

[2] 18 CFR 157.205.

[3] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[4] 18 CFR 157.205(e).

the protest deadline, which is September 6, 2021. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [5] and the regulations under the NGA [6] by the intervention deadline for the project, which is September 6, 2021. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before September 6, 2021. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP21–471–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [7]

(2) You can file a paper copy of your submission by mailing it to the address below.[8] Your submission must reference the Project docket number CP21–471–000. Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: Kenan Carioti, Gas Transmission Certificates Consultant, 6303 West Broad Street, Richmond, VA 23230 or *kenan.carioti@bhegts.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: July 8, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–14946 Filed 7–13–21; 8:45 am]

BILLING CODE 6717–01–P

[5] 18 CFR 385.214.

[6] 18 CFR 157.10.

[7] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

[8] Hand-delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2629–014]

Village of Morrisville, Vermont; Notice of Conference Call

a. *Date and Time of Meeting:* August 25, 2021 at 10:00 a.m. Eastern Time.

b. *FERC Contact:* Steve Kartalia at *stephen.kartalia@ferc.gov* or (202) 502–6131.

c. *Purpose of Meeting:* On May 24, 2021, in a filing labeled privileged, the Village of Morrisville (Morrisville) requested a meeting with Commission staff to receive guidance on its pending application to relicense the Morrisville Hydroelectric Project No. 2629, including potential amendments to the license application or the current license. The conference call will provide Morrisville with the opportunity to discuss potential amendments with Commission staff.

d. *Proposed Agenda:* (1) Introduction of participants; (2) Commission staff explains purpose of the meeting; (3) Morrisville discusses its potential amendments and seeks guidance from Commission staff; (4) Meeting participants discuss questions and topics raised by Morrisville; and (5) Commission staff concludes the meeting.

e. A summary of the meeting will be prepared and filed in the Commission's public file for the project.

f. All local, state, and federal agencies, Indian tribes, and other interested parties are invited to participate by phone. If interested, please contact Steve Kartalia at *stephen.kartalia@ferc.gov* or (202) 502–6131, by August 23, 2021, to receive a link and invitation to the conference call.

Dated: July 8, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–14944 Filed 7–13–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC21–27–000]

Commission Information Collection Activities (FERC–65, FERC–65A, and FERC–65B) Consolidated Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–65 (Notice of Holding Company Status), FERC–65A (Exemption Notification of holding Company Status), and FERC–65B (Waiver Notification of Holding Company Status). Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below.

DATES: Comments on the collection of information are due August 13, 2021.

ADDRESSES: Send written comments on FERC–65, 65A, 65B to OMB through *www.reginfo.gov/public/do/PRAMain,* Attention: Federal Energy Regulatory Commission Desk Officer. Please identify the OMB control number (1902–0218) in the subject line. Your comments should be sent within 30 days of publication of this notice in the **Federal Register**.

Please submit copies of your comments (identified by Docket No. IC21–27–000) to the Commission as noted below. Electronic filing through *http://www.ferc.gov,* is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery.

○ *Mail via U.S. Postal Service Only:* Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

○ *Hand (Including Courier) Delivery:* Deliver to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Instructions:

OMB submissions must be formatted and filed in accordance with submission guidelines at *www.reginfo.gov/public/do/PRAMain;* Using the search function under the ''Currently Under Review field,'' select Federal Energy Regulatory Commission; click ''submit'' and select ''comment'' to the right of the subject collection.

FERC submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov* and telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC–65 (Notice of Holding Company Status), FERC–65A (Exemption Notification of Holding Company Status), and FERC–65B (Waiver Notification of Holding Company Status).

OMB Control No.: 1902–0218.

Type of Request: Three-year extension of the FERC–65, FERC–65A and FERC–65B information collection requirements with no changes to the current reporting requirements.

Abstract:

FERC–65 (Notice of Holding Company Status)

The Pursuant to section 366.4 of the Commission's rules and regulations, persons who meet the definition of a holding company shall provide the Commission notification of holding company status. The FERC–65 is a one-time informational filing outlined in the Commission's regulations at 18 Code of Federal Regulations (CFR) 366.4. The FERC–65 must be submitted within 30 days of becoming a holding company.[1] While the Commission does not require the information to be reported in a specific format, the filing must consist of the name of the holding company, the name of public utilities, the name of natural gas companies in the holding company system, and the names of service companies. In addition, the Commission requires the filing to include the names of special-purpose subsidiaries (which provide non-power goods and services) and the names of all affiliates and subsidiaries (and their corporate interrelationship) to each other. Filings may be submitted in hardcopy or electronically through the Commission's eFiling system.

FERC–65A (Exemption Notification of Holding Company Status)

While noting the previously outlined requirements of the FERC–65, the Commission has allowed for an exemption from the requirement of providing the Commission with a FERC–65 if the books, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public utility or natural gas company; or if any class of transactions is not relevant to the jurisdictional rates of a public utility or natural gas company. Persons seeking this exemption may file the FERC–65A, which must include a form of notice suitable for publication in the **Federal Register**. Those who file a FERC–65A in good faith will have a temporary exemption upon filing. After 60 days if the Commission has taken no action, the exemption will be deemed granted. Commission regulations within 18 CFR 366.3 describe the criteria in more specificity.

FERC–65B (Waiver Notification of Holding Company Status)

If an entity meets the requirements in 18 CFR 366.3(c), they may file a FERC–65B waiver notification pursuant to the procedures outlined in 18 CFR 366.4. Specifically, the Commission waives the requirement of providing it with a FERC–65 for any holding company with respect to one or more of the following: (1) Single-state holding company systems; (2) holding companies that own generating facilities that total 100 MW or less in size and are used fundamentally for their own load or for

[1] Persons that meet the definition of a holding company as provided by § 366.1 as of February 8, 2006 shall notify the Commission of their status as a holding company no later than June 15, 2006. Holding companies formed after February 8, 2006 shall notify the Commission of their status as a holding company, no later than the latter of June 15, 2006 or 30 days after they become holding companies.

sales to affiliated end-users; or (3) investors in independent transmission-only companies. Filings may be made in hardcopy or electronically through the Commission's website.

Type of Respondent: Public utility companies, natural gas companies, electric wholesale generators, foreign utility holding companies.

The 60-day **Federal Register** Notice [2] published on May 5, 2021 and no comments were received during the comment period.

Estimate of Annual Burden: [3] The Commission estimates the annual public reporting burden for the information collection as:

FERC–65 (NOTIFICATION OF HOLDING COMPANY STATUS),FERC–65A (EXEMPTION NOTIFICATION OF HOLDING COMPANY STATUS), ANDFERC–65B (WAIVER NOTIFICATION OF HOLDING COMPANY STATUS)

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden & cost per response [4]	Total annual burden hours & total annual cost ($)	Cost per respondent ($)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
FERC–65	12	1	12	3h hrs.; $249.00	36 hrs.; $2,988	$249.00
FERC–65A	4	1.25	5	1 hrs.; $83.00	5 hrs.; $415.00	103.75
FERC–65B	4	1.75	7	1 hrs.; $83.00	7 hrs.; $581.00	145.25
Total			24		48 $3,984.00	

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: July 8, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–14951 Filed 7–13–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER21–2304–000]

Arlington Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Arlington Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 27, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: July 7, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–14918 Filed 7–13–21; 8:45 am]

BILLING CODE 6717–01–P

[2] 86 FR 23953.

[3] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. Refer to 5 CFR 1320.3 for additional information.

[4] The Commission staff estimates that the average respondent for this collection is similarly situated to the Commission, in terms of salary plus benefits. Based on FERC's 2020 annual average of $172,329 (for salary plus benefits), the average hourly cost is $83/hour.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP21–468–000]

ANR Pipeline Company; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on June 28, 2021, ANR Pipeline Company (ANR), 700 Louisiana Street, Suite 1300, Houston, TX 77002–2700 filed in the above referenced docket, a prior notice pursuant to sections 157.205 and 157.216 of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act, requesting authorization to abandon eight injection/withdrawal wells and six associated pipelines and appurtenances, located in its Loreed Storage Field in Osceola County, Michigan (2021 Loreed Well and Pipeline Abandonment Project or Project). ANR proposes to abandon these facilities under authorities granted by its blanket certificate issued in Docket No. CP82–480–000.[1] The proposed abandonments will have no impact on ANR's existing customers or affect its existing storage operations. The estimated cost for the Project is approximately $3.3 million, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application should be directed to Sorana Linder, Director, Modernization & Certificates, ANR Pipeline Company, 700 Louisiana Street, Suite 1300, Houston, TX 77002–2700; by phone: (832) 320–5209; or email: *sorana_linder@tcenergy.com.*

Pursuant to Section 157.9 of the Commission's Rules of Practice and Procedure,[2] within 90 days of this Notice the Commission staff will either: Complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Public Participation

There are three ways to become involved in the Commission's review of this project: You can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on September 7, 2021. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[3] any person [4] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[5] and must be submitted by the protest deadline, which is September 7, 2021. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [6] and the regulations under the NGA [7] by the intervention deadline for the project, which is September 7, 2021. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the

[1] *Michigan Wisconsin Pipe Line Company,* 20 FERC ¶ 62,595 (1982).

[2] 18 CFR (Code of Federal Regulations) § 157.9.

[3] 18 CFR 157.205.

[4] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[5] 18 CFR 157.205(e).

[6] 18 CFR 385.214.

[7] 18 CFR 157.10.

appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before September 7, 2021. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP21–468–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [8]

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP21–468–000.

To mail via USPS, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To mail via any other courier, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue Rockville, Maryland 20852.

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: Sorana Linder, Director, Modernization & Certificates, ANR Pipeline Company, 700 Louisiana Street, Suite 1300, Houston, TX 77002–2700; or *sorana_linder@tcenergy.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: July 7, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–14907 Filed 7–13–21; 8:45 am]

BILLING CODE 6717–01–P

[8] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 349–208]

Alabama Power Company; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Non-Project Use of Project Lands and Waters.

b. *Project No.:* 349–208.

c. *Date Filed:* December 29, 2020, as supplemented on April 20, 2021.

d. *Applicant:* Alabama Power Company.

e. *Name of Project:* Martin Dam Hydroelectric Project.

f. *Location:* The Martin Dam Hydroelectric Project is located on the Tallapoosa River (Lake Martin), in Tallapoosa, Elmore, and Coosa counties, Alabama, and occupies federal land administered by the U.S. Bureau of Land Management (BLM); the non-project use is located in Tallapoosa County.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Unzell Kelley, Alabama Power Company at (205) 517–0885 or *ukelley@southernco.com.*

i. *FERC Contact:* Shana High at (202) 502–8674 or *shana.high@ferc.gov.*

j. *Deadline for filing motions to intervene and protests:* August 9, 2021.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–349–208. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* Alabama Power Company is requesting Commission approval to permit Lake Martin Land Company, LLC to construct common area structures (a boardwalk and five docks that would accommodate a total of 20 watercraft) to be associated with The Landing at Stillwaters, a residential development in the Stillwaters community.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may

also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: July 8, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–14945 Filed 7–13–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER21–2296–000]

Ensign Wind Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Ensign Wind Energy, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 27, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: July 7, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–14905 Filed 7–13–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1862–032; ER10–1863–009; ER10–1893–032; ER10–1934–032; ER10–1938–033; ER10–1942–030; ER10–2042–038; ER10–2985–036; ER10–3049–037; ER10–3051–037; ER11–4369–017; ER16–2218–017; ER17–696–018.

Applicants: Calpine Energy Services, L.P., Calpine Construction Finance Company, LP, Calpine Energy Solutions, LLC, Calpine PowerAmerica—CA, LLC, CES Marketing IX, LLC, CES Marketing X, LLC, Champion Energy, LLC, Champion Energy Marketing LLC, Champion Energy Services, LLC, North American Power and Gas, LLC, North American Power Business, LLC, Pine Bluff Energy, LLC, Power Contract Financing, L.L.C.

Description: Triennial Market Power Analysis for Central Region of Power Contract Financing, L.L.C., et al.

Filed Date: 6/30/21.

Accession Number: 20210630–5373.

Comments Due: 5 p.m. ET 8/30/21.

Docket Numbers: ER10–2178–037; ER10–2192–037; ER11–2009–026; ER11–2011–026; ER11–3989–022; ER12–2201–017; ER12–2311–017; ER13–1536–021; ER14–2144–009; ER20–2596–001.

Applicants: Beebe 1B Renewable Energy, LLC, Beebe Renewable Energy, LLC, Constellation Energy Commodities Group Maine, LLC, Constellation NewEnergy, Inc., Exelon Generation Company, LLC, Exelon Generation Supply, LLC, Harvest II Windfarm, LLC,

Harvest WindFarm, LLC, Michigan Wind 1, LLC, Michigan Wind 2, LLC.

Description: Triennial Market Power Analysis for Central Region of Constellation NewEnergy, Inc., et al.

Filed Date: 6/30/21.

Accession Number: 20210630–5372.

Comments Due: 5 p.m. ET 8/30/21.

Docket Numbers: ER10–2407–007; ER10–2424–007; ER10–2425–009; ER13–1816–014;ER17–1316–005; ER18–1186–004; ER19–1280–001; ER19–2626–002; ER21–714–002.

Applicants: Broadlands Wind Farm LLC, Indiana Crossroads Wind Farm LLC, Lost Lakes Wind Farm LLC, Pioneer Prairie Wind Farm I, LLC, Quilt Block Wind Farm LLC, Rail Splitter Wind Farm, LLC, Rosewater Wind Farm LLC, Sustaining Power Solutions LLC, Turtle Creek Wind Farm LLC.

Description: Triennial Market Power Analysis for Central Region and Notice of Non-Material Change in Status of Lost Lakes Wind Farm LLC, et al.

Filed Date: 6/30/21.

Accession Number: 20210630–5371.

Comments Due: 5 p.m. ET 8/30/21.

Docket Numbers: ER14–1818–023; ER16–701–006; ER21–1372–002; ER21–1374–002; ER21–1377–001.

Applicants: Boston Energy Trading and Marketing LLC, Diamond Retail Energy, LLC, Diamond Energy East, LLC, Diamond Energy NY, LLC, CPV Valley, LLC.

Description: Notice of Non-Material Change in Status of Boston Energy Trading and Marketing LLC, et al.

Filed Date: 7/6/21.

Accession Number: 20210706–5117.

Comments Due: 5 p.m. ET 7/27/21.

Docket Numbers: ER16–1946–001; ER16–1947–001; ER16–1948–001.

Applicants: Atlantic Energy LLC, Atlantic Energy MD, LLC, Atlantic Energy MA LLC.

Description: Notice of Non-Material Change in Status of Atlantic Energy LLC.

Filed Date: 7/7/21.

Accession Number: 20210707–5093.

Comments Due: 5 p.m. ET 7/28/21.

Docket Numbers: ER18–1960–004

Applicants: Tenaska Pennsylvania Partners, LLC.

Description: Notice of Change in Status of Tenaska Pennsylvania Partners, LLC.

Filed Date: 7/6/21.

Accession Number: 20210706–5161.

Comments Due: 5 p.m. ET 7/27/21.

Docket Numbers: ER21–1217–002; ER21–1218–002.

Applicants: Iris Solar, LLC, St. James Solar, LLC.

Description: Notice of Change in Status of Iris Solar, LLC, et al.

Filed Date: 7/6/21.

Accession Number: 20210706–5160.

Comments Due: 5 p.m. ET 7/27/21.

Docket Numbers: ER21–1934–001.

Applicants: Northern States Power Company, a Minnesota corporation.

Description: Tariff Amendment: 2021–07–07 CAPX2020-Fargo OMA-Request for Deferral Action-307–0.1.1 to be effective 12/31/9998.

Filed Date: 7/7/21.

Accession Number: 20210707–5062.

Comments Due: 5 p.m. ET 7/28/21.

Docket Numbers: ER21–2012–001.

Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: 607R40 Evergy Kansas Central, Inc. NITSA NOA to be effective 5/1/2021.

Filed Date: 7/7/21.

Accession Number: 20210707–5029.

Comments Due: 5 p.m. ET 7/28/21.

Docket Numbers: ER21–2358–000.

Applicants: ITC Midwest LLC.

Description: Tariff Cancellation: Filing of Cancellation to Comply with ER11–4486 to be effective 9/5/2021.

Filed Date: 7/6/21.

Accession Number: 20210706–5105.

Comments Due: 5 p.m. ET 7/27/21.

Docket Numbers: ER21–2359–000.

Applicants: ITC Midwest LLC.

Description: § 205(d) Rate Filing: Filing of RS 79 to Comply with ER11–4486 to be effective 9/5/2021.

Filed Date: 7/6/21.

Accession Number: 20210706–5115.

Comments Due: 5 p.m. ET 7/27/21.

Docket Numbers: ER21–2360–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3720 Thunderhead Wind Energy/Evergy KS CentralMeterAgent Cnl to be effective 7/1/2021.

Filed Date: 7/7/21.

Accession Number: 20210707–5010.

Comments Due: 5 p.m. ET 7/28/21.

Docket Numbers: ER21–2361–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA, Service Agreement No. 5859; Queue No. AC1–078 to be effective 11/30/2020.

Filed Date: 7/7/21.

Accession Number: 20210707–5021.

Comments Due: 5 p.m. ET 7/28/21.

Docket Numbers: ER21–2362–000.

Applicants: Red Cloud Wind LLC.

Description: § 205(d) Rate Filing: Co-Tenancy, Common Facilities and Easement Agreement to be effective 7/8/2021.

Filed Date: 7/7/21.

Accession Number: 20210707–5040.

Comments Due: 5 p.m. ET 7/28/21.

Docket Numbers: ER21–2363–000.

Applicants: Alabama Power Company.

Description: § 205(d) Rate Filing: Photosol US Renewable Energy (Mobile River Solar 1) LGIA Filing to be effective 6/22/2021.

Filed Date: 7/7/21.

Accession Number: 20210707–5043.

Comments Due: 5 p.m. ET 7/28/21.

Docket Numbers: ER21–2364–000.

Applicants: Albemarle Beach Solar, LLC.

Description: Baseline eTariff Filing: Reactive Power Compensation Filing to be effective 7/8/2021.

Filed Date: 7/7/21.

Accession Number: 20210707–5044.

Comments Due: 5 p.m. ET 7/28/21.

Docket Numbers: ER21–2365–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2021–07–07_Att FF Triennial MVP Review Filing to be effective 9/6/2021.

Filed Date: 7/7/21.

Accession Number: 20210707–5048.

Comments Due: 5 p.m. ET 7/28/21.

Docket Numbers: ER21–2366–000.

Applicants: Mobile Energy, LLC.

Description: § 205(d) Rate Filing: Normal filing 2021 to be effective 7/8/2021.

Filed Date: 7/7/21.

Accession Number: 20210707–5061.

Comments Due: 5 p.m. ET 7/28/21.

Docket Numbers: ER21–2367–000.

Applicants: Lanyard Power Holdings, LLC.

Description: § 205(d) Rate Filing: Reactive Service Filing Re Transfer of Units to Chalk Point Power to be effective 6/29/2021.

Filed Date: 7/7/21.

Accession Number: 20210707–5080.

Comments Due: 5 p.m. ET 7/28/21.

Docket Numbers: ER21–2368–000.

Applicants: Chalk Point Power, LLC.

Description: § 205(d) Rate Filing: Chalk Point Power Proposed Reactive Supply Service Tariff to be effective 6/29/2021.

Filed Date: 7/7/21.

Accession Number: 20210707–5090.

Comments Due: 5 p.m. ET 7/28/21.

Docket Numbers: ER21–2369–000.

Applicants: Dickerson Power, LLC.

Description: § 205(d) Rate Filing: Dickerson Power Reactive Tariff With Effective Date to be effective 6/29/2021.

Filed Date: 7/7/21.

Accession Number: 20210707–5094.

Comments Due: 5 p.m. ET 7/28/21.

Docket Numbers: ER21–2370–000.

Applicants: Brookfield Renewable Trading and Marketing LP.

Description: Compliance filing: Justification of Spot Market Sale Above Soft Cap to be effective N/A.

Filed Date: 7/7/21.

Accession Number: 20210707–5103.

Comments Due: 5 p.m. ET 7/28/21.

Docket Numbers: ER21–2371–000.

Applicants: Lanyard Power Holdings, LLC.

Description: Tariff Cancellation: Cancellation of Effective Dickerson Reactive Tariff effective June 29, 2021 to be effective 6/29/2021.

Filed Date: 7/7/21.

Accession Number: 20210707–5105.

Comments Due: 5 p.m. ET 7/28/21.

Docket Numbers: ER21–2372–000.

Applicants: Ohio Power Company.

Description: American Electric Power/Ohio Power Co. submits a Notice of Termination of an Operation and Maintenance Agreement designated as Supplement No. 32 to Rate Schedule FERC No. 74.

Filed Date: 6/30/21.

Accession Number: 20210630–5376.

Comments Due: 5 p.m. ET 7/21/21.

Docket Numbers: ER21–2373–000.

Applicants: DTE Energy Trading, Inc.

Description: Compliance filing: DTE Eenrgy Trading Cost Justification Filing to be effective N/A.

Filed Date: 7/7/21.

Accession Number: 20210707–5112.

Comments Due: 5 p.m. ET 7/28/21.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH21–11–000.

Applicants: Axium Infrastructure Inc.

Description: Axium Infrastructure, Inc. submits FERC–65B Notice of Change in Fact to Waiver Notification.

Filed Date: 7/6/21.

Accession Number: 20210706–5159.

Comments Due: 5 p.m. ET 7/27/21.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 7, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–14908 Filed 7–13–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–48–000]

Iroquois Gas Transmission System, L.P.; Notice of Revised Comment Period Deadline

On June 11, 2021, the Commission issued a notice setting August 2, 2021, as the date to file comments on the draft Environmental Impact Statement (EIS) for the Enhancement by Compression Project. The comment due date was based on the Environmental Protection Agency (EPA) issuing its **Federal Register** Notice of Availability of the EIS on the following Friday, June 18, 2021, consistent with EPA's filing guidance and procedures. However, in observance of Juneteenth (as announced on June 17, 2021), the EPA did not issue its **Federal Register** notice for the EIS until June 25, 2021. Per Title 40 Code of Federal Regulations Section 1506.11, it is the EPA's notice that establishes the beginning dates for comment periods on EISs. Therefore, the Commission is notifying all interested parties that the comment period now expires on August 9, 2021.

Dated: July 8, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–14943 Filed 7–13–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 298–082]

Southern California Edison Company; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Temporary variance of license flow requirements.

b. *Project No.:* 298–082.

c. *Date Filed:* July 1, 2021.

d. *Applicant:* Southern California Edison Company (licensee).

e. *Name of Project:* Kaweah Project.

f. *Location:* The project is located on the East Fork, Marble Fork, and Middle Fork of the Kaweah River in Tulare County, California, and occupies lands of the United States administered by the Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Wayne Allen, Southern California Edison Company, 1515 Walnut Grove Avenue, Rosemead, California 91770; (626) 302–9741; *wayne.allen@sce.com.*

i. *FERC Contact:* Brian Bartos, (202) 502–6679, *brian.bartos@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests is August 9, 2021.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. The first page of any filing should include docket number P–298–082. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The licensee requests Commission approval through the end of 2021 for a temporary variance of the minimum flow requirements below the Kaweah No. 1

and No. 2 diversions, as required by Article 405 of the project license. The licensee states that the projected runoff is extremely low, and current runoff in the Kaweah River and East Fork Kaweah River is at the lowest level in 20 years. Being that the licensee cannot accurately forecast long-term runoff during this extreme drought event, it is proactively requesting the temporary variance to allow it to balance available instream flow with its contractual water rights obligations, should it become necessary. Should drought conditions persist and the temporary variance is implemented, the licensee would deliver the minimum amount of water necessary through the respective diversion in order to meet its contractual water rights obligations; the licensee would not generate at the respective powerhouse(s) during implementation of the variance. The licensee would only implement the variance in the event that low inflow into the diversion dam(s) impairs the ability to meet both minimum instream flow releases and domestic water supply requirements. Additionally, the licensee proposes to monitor and report flow conditions to U.S. Fish and Wildlife Service and California Department of Fish and Wildlife during the temporary variance.

l. *Locations of the Application:* The Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. Agencies may obtain copies of the application directly from the applicant. At this time, the Commission has suspended access to the Commission's Public Reference Room due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll free, (866) 208–3676 or TTY, (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* All filings must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 385.2010.

Dated: July 8, 2021.

Kimberly Bose,

Secretary.

[FR Doc. 2021–14950 Filed 7–13–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER21–2294–000]

Arlington Energy Center II, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Arlington Energy Center II, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 27, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: July 7, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–14906 Filed 7–13–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER21–2293–000]

Fish Springs Ranch Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Fish Springs Ranch Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 21, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: July 1, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–14922 Filed 7–13–21; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2021–0436; FRL–7732–03–OCSPP]

Development of Tiered Data Reporting To Inform TSCA Prioritization, Risk Evaluation, and Risk Management; Notice of Public Meeting and Opportunity To Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On July 27, 2021, EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) will hold a public meeting to engage with interested stakeholders on the development of a proposed rule for implementing a tiered data collection strategy to help inform the Agency's prioritization, risk evaluation, and risk management activities for chemical substances or mixtures under the Toxic Substances Control Act (TSCA). Currently, EPA primarily collects exposure-related data through the TSCA Chemical Data Reporting (CDR) process. EPA is interested in ensuring that data collection strategies provide information to better meet the Agency's basic chemical data needs, such as information related to exposure, health, and eco-toxicity. To this end, EPA is exploring a data reporting rule that is tiered to specific stages of the TSCA existing chemicals program: Identifying a pool of substances as potential candidates for prioritization, Selecting candidate chemicals for and completing the prioritization process, and Assessing high-priority substances through a robust risk evaluation, which may be followed by risk management actions (depending on the outcome of the risk evaluation). Feedback from the public meeting and comments received will help inform the Agency's development of a proposed rule.

DATES:

Meeting: The meeting will be held virtually via WebEx on July 27, 2021, from 1:00 to 3:00 EDT.

Register by: Those who would like to make a comment during the meeting must register by 6:00 p.m. EDT on July 22, 2021. Those who would like to participate in listen-only mode must register by 6:00 p.m. EDT on July 26, 2021.

Comments: Written comments, identified by docket identification (ID) number EPA–HQ–OPPT–2021–0436, must be received on or before August 15, 2021.

Accommodations: To request accommodation of a disability, please contact the meeting contact listed under **FOR FURTHER INFORMATION CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: Register to attend this virtual public meeting at *https://us-epa-tirered-data-reporting.eventbrite.com.*

Submit written comments to the docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2021–0436, online at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Please note that due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on the EPA/DC and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Susan Sharkey, Data Gathering and Analysis Division (7410M), Office of Pollution Prevention and Toxics, Environmental Protection Agency; telephone number: (202) 564–8789; email address: *sharkey.susan@epa.gov.*

For meeting logistics or registration assistance contact: Sarah Swenson; telephone number: (202) 566–0279; email address: *swenson.sarah@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture (including import), process, or distribute or propose to manufacture (including import), process, or distribute chemical substances or mixtures that can be regulated under TSCA. Any use of the term ''manufacture'' in this document will encompass ''import,'' the term ''manufacturer'' will encompass ''importer,'' and the term ''chemical substance'' will encompass ''byproduct chemical substance,'' unless otherwise stated.

This action may be of interest to other stakeholders, including non-profit organizations in the environmental and public health sectors and members of the public interested in the safety of chemical substances used in industrial, commercial, and consumer settings. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them, and is based on the Agency's previous experience with TSCA section 8(a) collections:

- Chemical manufacturing (NAICS code 325); and
- Petroleum and coal product manufacturing (NAICS code 324).

In addition to these anticipated respondents, the potentially regulated community consists of manufacturers of byproducts that are required to report under certain TSCA section 8(a) rules, including CDR. Byproduct manufacturers may be listed under a different primary NAICS activity code for a site, such as NAICS codes 22, 322, 327310, 331 and 3344, representing utilities, paper manufacturing, cement manufacturing, primary metal manufacturing, and semiconductor and other electronic component manufacturing, respectively.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. Background

TSCA requires EPA to evaluate the safety of existing chemical substances via a three-stage process comprised of prioritization, risk evaluation, and risk management. EPA's website (*https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/how-epa-evaluates-safety-existing-chemicals*) provides a detailed overview of these three stages. Under TSCA, EPA is required to have at least 20 chemical risk evaluations being conducted at any given time on substances designated as high-priority substances. Therefore, EPA needs to maintain a pool of potential candidate chemical substances to ensure that there are a sufficient number of substances ready to be prioritized and, if designated a high-priority substance, to be evaluated for risk under TSCA.

Currently, EPA relies on CDR for exposure-related information which is used, along with data from other sources, to identify the potential candidate chemicals. CDR requires submission of information to EPA by manufacturers (including importers) every four years on the production and use of chemicals in commerce. These basic exposure-related data include information on the types, quantities and uses of chemical substances produced domestically and imported into the United States. EPA uses CDR data to support risk screening, chemical prioritization, risk evaluation, and risk management activities, among other activities. This information allows EPA to develop an understanding of the types, amount, end uses, and possible exposure to chemicals in commerce. The CDR database constitutes the most comprehensive source of basic screening-level, exposure-related information on chemicals available to EPA.

CDR data, however, could be enhanced to provide more specific or relevant data to meet the exposure-related needs of the existing chemicals program. EPA needs data targeted to specific analyses at each stage of the existing chemicals program. Such data include exposure, health, and eco-toxicity information.

A. Stages of the Existing Chemicals Prioritization, Risk Evaluation, and Risk Management Program

Identification of Potential Candidates and Selection for Prioritization: TSCA requires the systematic prioritization of tens of thousands of existing chemicals for risk evaluation. EPA is required to select a certain percentage of candidates for prioritization from chemical substances listed on the 2014 Update of the TSCA Work Plan, giving preference to chemicals with certain hazard characteristics. Aside from the statutory preferences and requirements, EPA has broad discretion to select which other chemical substances to prioritize. EPA is interested in ensuring that exposure-related information collected through CDR provides sufficient basic data to inform the potential candidate selection process. Once a chemical substance is identified as a potential candidate, EPA needs additional information to inform which of the potential candidates should be selected to enter the prioritization stage.

Prioritization: EPA formally announces when a chemical substance is to begin 9 to 12-month long prioritization stage and provides a 3-month period for the public to submit relevant information for the subject chemicals. EPA needs sufficient information to understand the use and other exposure-related scenarios in order to inform the decision of whether the chemical should be designated as high-priority substance and, therefore, enter the risk evaluation process.

Therefore, EPA is considering requiring certain necessary data be reported by chemical manufacturers (including importers) and is considering either notifying or collecting information from processors. Additional information about the candidate selection and prioritization processes is available on EPA's website, at *https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/prioritizing-existing-chemicals-risk-evaluation.*

Risk evaluation: Once a chemical is designated as a high-priority substance, EPA begins to evaluate the risk of the chemical. The purpose of risk evaluation is to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment, including an unreasonable risk to a relevant potentially exposed or susceptible subpopulation. As part of this process, EPA must evaluate both hazard and exposure, exclude consideration of costs or other non-risk factors, use scientific

information and approaches in a manner that is consistent with the requirements in TSCA for the best available science, and ensure decisions are based on the weight of scientific evidence. EPA needs to ensure that sufficient information is available to inform the risk evaluation, including the development of the scope of the evaluation. Information is needed in a timely manner. For example, the scope is generally published as a draft within three months of a chemical being designated as a high-priority substance, and the scope must be finalized no later than six months after the initiation of the risk evaluation process. Information is also needed to inform exposure and hazard assessments. EPA is considering requiring chemical manufacturers (including importers), processors, and distributors to submit information to EPA to support these risk evaluation activities.

Additional information about the risk evaluation process is available on EPA's website, at *https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/risk-evaluations-existing-chemicals-under-tsca.*

Risk management: Following risk evaluation, TSCA mandates that EPA take action if the Agency determines that there are unreasonable risks to public health or the environment from chemicals currently on the market. If at the end of the risk evaluation process EPA determines that a chemical substance presents an unreasonable risk of injury to health or the environment, the Agency must immediately start the risk management rulemaking process to address the unreasonable risk. EPA needs to ensure that sufficient information is available to develop risk management plans and actions. For chemicals in the risk management stage, the Agency is considering requiring manufacturers (including importers), processors, and distributors to report the same type of information reported during the risk evaluation stage to ensure that EPA has the most up-to-date information to inform risk management actions. For example, if a company reported using a chemical in a particular manner at the beginning of the existing chemical process, but changes occurred in some way during the stages of the existing chemical process, the company would report on those data elements that have changed.

Additional information about the risk management process is available on EPA's website, at *https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/risk-management-existing-chemicals-under-tsca.*

B. TSCA Data Reporting Authorities

Under TSCA section 8, EPA is authorized to collect certain information about chemical substances. EPA is considering using the authorities under TSCA sections 8(a), 8(c), and 8(d) to develop a model rule that can be used to trigger the need to report information for each stage of the existing chemicals program.

TSCA section 8(a)(1) authorizes the EPA Administrator to promulgate rules under which manufacturers and processors of chemical substances must maintain such records, and submit such information, as the EPA Administrator may reasonably require. The information includes, to the extent that it is known or reasonably ascertainable: Chemical identity and related information; manufacturing and importing exposure-related information including byproducts; processing and use exposure-related information; and existing environmental and health effects information. CDR, described previously, is an example of a TSCA section 8(a) rule.

TSCA section 8(c) requires manufacturers, processors, and distributors to maintain and, upon request, submit to EPA information such as: Significant adverse health effects, consumer allegations, occupational disease or injury, and complaints of injury to the environment.

TSCA section 8(d) requires manufacturers, processors, and distributors to submit to EPA study information that is known or reasonably ascertainable, including lists of health and safety studies and, upon request, copies of such studies. The studies do not need to be published to be included in the submission.

III. How can I request to participate in this meeting?

You may submit a request to participate in this meeting by following the information listed under **DATES** and **ADDRESSES**. If you have questions about the meeting, you may contact the technical person for meeting content questions or the meeting contact for logistics and participation questions, as listed under **FOR FURTHER INFORMATION CONTACT**. Do not submit any information in your request that is considered CBI.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: July 8, 2021.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2021–14928 Filed 7–13–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0355; FR ID 37519]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before September 13, 2021. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0355.

Title: Rate-of-Return Monitoring Reports.

Form Numbers: FCC Form 492.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 35 respondents; 35 responses.

Estimated Time per Response: 10 hours.

Frequency of Response: Annual reporting requirement and recordkeeping requirement.

Obligation To Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 160, 161, 209(b) and 220 as amended by the Communications Act of 1934, as amended.

Total Annual Burden: 350 hours.

Total Annual Cost: No cost.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In most cases, the rate-of-return reports do not require submission of any confidential or commercially-sensitive data. The areas in which detailed information is required are fully subject to regulation. If a respondent finds it necessary to submit confidential or commercially-sensitive data, they may do so under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The filing of FCC Form 492 is required by 47 CFR 65.600 of the Commission's rules. The annual filing of FCC Form 492 is required from the National Exchange Carrier Association (NECA) collectively for carriers that participate in both its tariffs and revenue-sharing pools and each local exchange carrier that is subject to section 61.38 of the Commission's Rules and that has filed individual access tariffs during the enforcement period, excluding carriers that elected incentive regulation for business data services (BDS) pursuant to the *Rate-of-Return BDS Order,* WC Docket No. 16–143 et al., Report and Order, 33 FCC Rcd 10403 (2018).

These data provide the necessary detail to enable the Commission to fulfill its regulatory responsibilities. The Commission has granted AT&T, Verizon, legacy Qwest, and other similarly-situated carriers forbearance from FCC Form 492–A. *See* Petition of AT&T Inc. for Forbearance under 47 U.S.C. 160 from Enforcement of Certain of the Commission's Cost Assignment Rules, WC Docket Nos. 07–21, 05–342, Memorandum Opinion and Order, 23 FCC Rcd 7302 (2008) (AT&T Cost Assignment Forbearance Order).

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–14942 Filed 7–13–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0139 and 3060–0979; FRS 37450]

Information Collections Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before September 13, 2021. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0139.

Title: Application for Antenna Structure Registration.

Form Number: FCC Form 854.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, business or other for-profit entities, not-for-profit institutions, and State, local, or Tribal governments.

Number of Respondents and Responses: 2,400 respondents; 57,100 responses.

Estimated Time per Response: .33 hours to 2.5 hours.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement and third-party disclosure reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 1, 2, 4(i), 303, and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 303, and 309(j), section 102(C) of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4332(C), and section 1506.6 of the regulations of the Council on Environmental Quality, 40 CFR 1506.6.

Total Annual Burden: 25,682 hours.

Total Annual Cost: $1,176,813.

Privacy Act Impact Assessment: Yes. This information collection contains personally identifiable information on individuals which is subject to the Privacy Act of 1974. Information on the FCC Form 854 is maintained in the Commission's System of Records, FCC/WTB–1, ''Wireless Services Licensing Records.'' These licensee records are publicly available and routinely used in accordance of subsection b of the Privacy Act, 5 U.S.C. 552a(b), as amended. Taxpayer Identification Numbers (TINs) and materials that are afforded confidential treatment pursuant to a request made under 47 CFR 0.459 of the Commission's rules will not be available for public inspection.

Nature and Extent of Confidentiality: Respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules. The Commission has in place the following policy and procedures for records retention and disposal: Records will be actively maintained as long as the entity remains a tower owner. Paper records will be

archived after being keyed or scanned into the Antenna Structure Registration (ASR) database and destroyed when twelve (12) years old.

Needs and Uses: The purpose of FCC Form 854 (Form 854) is to register antenna structures that are used for radio communication services which are regulated by the Commission; to make changes to existing antenna structure registrations or pending applications for registration; or to notify the Commission of the completion of construction or dismantlement of such structures, as required by Title 47 of the Code of Federal Regulations, Chapter 1, Sections 1.923, 1.1307, 1.1311, 17.1, 17.2, 17.4, 17.5, 17.6, 17.7, 17.57 and 17.58.

Any person or entity proposing to construct or alter an antenna structure that is more than 60.96 meters (200 feet) in height, or that may interfere with the approach or departure space of a nearby airport runway, must notify the Federal Aviation Administration (FAA) of proposed construction. The FAA determines whether the antenna structure constitutes a potential hazard and may recommend appropriate painting and lighting for the structure. The Commission then uses the FAA's recommendation to impose specific painting and/or lighting requirements on radio tower owners and subject licensees. When an antenna structure owner for one reason or another does not register its structure, it then becomes the responsibility of the tenant licensees to ensure that the structure is registered with the Commission.

Section 303(q) of the Communications Act of 1934, as amended, gives the Commission authority to require painting and/or illumination of radio towers in cases where there is a reasonable possibility that an antenna structure may cause a hazard to air navigation. In 1992, Congress amended Sections 303(q) and 503(b)(5) of the Communications Act to make radio tower owners, as well as Commission licensees and permittees responsible for the painting and lighting of radio tower structures, and to provide that non-licensee radio tower owners may be subject to forfeiture for violations of painting or lighting requirements specified by the Commission.

OMB Control Number: 3060–0979.

Title: License Audit Letter.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, business or other for-profit entities, not-for-profit institutions and state, local or tribal government.

Number of Respondents: 25,000 respondents; 25,000 responses.

Estimated Time per Response: .50 hours.

Frequency of Response: One-time reporting requirement.

Obligation To Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151, 152, 154(i), 155(c), 157, 201, 202, 208, 214, 301, 302a, 303, 307, 308, 309, 310, 311, 314, 316, 319, 324, 331, 332, 333, 336, 534 and 535.

Total Annual Burden: 12,500 hours.

Total Annual Cost: No cost.

Privacy Impact Assessment: Yes. Records of the Wireless Radio Services may include information about individuals or households, and the use(s) and disclosure of this information is governed by the requirements of a system of records, FCC/WTB–1, ''Wireless Services Licensing Records''. However, the Commission makes all information within the Wireless Radio Services publicly available on its Universal Licensing System (ULS) web page.

Nature and Extent of Confidentiality: Respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of their rules. Information within Wireless Radio Services is maintained in the Commission's system or records notice or 'SORN', FCC/WTB–1, ''Wireless Services Licensing Records''. These licensee records are publicly available and routinely used in accordance with subsection b of the Privacy Act of 1973, 5 U.S.C. 552a(b), as amended. Material that is afforded confidential treatment pursuant to a request made under 47 CFR 0.459 of the Commission's rules will not be available for public inspection. The Commission has in place the following policy and procedures for records retention and disposal: Records will be actively maintained as long as the individual remains a licensee. Paper records will be archived after being keyed or scanned into the system and destroyed when 12 years old; electronic records will be backed up and deleted twelve years after the licenses are no longer valid.

Needs and Uses: The Commission is seeking OMB approval for an extension of this information collection in order to obtain their full three-year approval. There is no change to the reporting requirement. There is no change to the Commission's burden estimates. The Wireless Telecommunications (WTB) and Public Safety and Homeland Security Bureaus (PSHSB) of the FCC periodically conduct audits of the construction and/or operational status of various Wireless radio stations in its licensing database that are subject to rule-based construction and operational requirements. The Commission's rules for these Wireless services require construction within a specified timeframe and require a station to remain operational in order for the license to remain valid. The information will be used by FCC personnel to assure that licensees' stations are constructed and currently operating in accordance with the parameters of the current FCC authorization and rules.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–14937 Filed 7–13–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments, relevant information, or documents regarding the agreements to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, Washington, DC 20573. Comments will be most helpful to the Commission if received within 12 days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202)-523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012187–002.

Agreement Name: Siem Car Carriers AS/Hoegh Autoliners AS Space Charter Agreement.

Parties: Siem Car Carriers AS and Hoegh Autoliners AS.

Filing Party: Ashley Craig; Venable LLP.

Synopsis: The amendment updates Article 5.3 of the Agreement to remove joint procurement and joint negotiation authority.

Proposed Effective Date: 6/30/2021.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/344.

Agreement No.: 012161–004.

Agreement Name: Siem Car Carriers AS/Hyundai Glovis Co., Ltd. Space Charter Agreement.

Parties: Siem Car Carriers AS and Hyundai Glovis Co., Ltd.

Filing Party: Ashley Craig; Venable LLP.

Synopsis: The amendment updates Article 5.3 of the Agreement to remove

joint procurement and joint negotiation authority.

Proposed Effective Date: 6/30/2021.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/317.

Agreement No.: 012390–001.

Agreement Name: Siem Car Carriers AS/Liberty Global Logistics LLC Space Charter Agreement.

Parties: Siem Car Carriers AS and Liberty Global Logistics LLC.

Filing Party: Ashley Craig; Venable LLP.

Synopsis: The amendment updates Article 5.3 of the Agreement to remove joint procurement and joint negotiation authority.

Proposed Effective Date: 6/30/2021.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/1006.

Agreement No.: 201363.

Agreement Name: Höegh Autoliners/National Shipping Company of Saudi Arabia (Bahri) Space Charter Agreement.

Parties: Hoegh Autoliners AS and The National Shipping Company of Saudi Arabia d.b.a. Bahri AS.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The Agreement authorizes the parties to charter space to/from one another in all U.S. trades worldwide.

Proposed Effective Date: 8/15/2021.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/47520.

Agreement No.: 201348–001.

Agreement Name: APL/Swire Guam, Saipan—S. Korea, Japan Slot Charter Agreement.

Parties: American President Lines, LLC and The China Navigation Co. Pte. Ltd. d/b/a Swire Shipping.

Filing Party: Patricia O'Neill; American President Lines, LLC.

Synopsis: The Amendment revises Article 5.1 to add Hakata, Japan as a port call under the Agreement.

Proposed Effective Date: 7/2/2021.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/34502.

Agreement No.: 012426–006.

Agreement Name: The OCEAN Alliance Agreement.

Parties: COSCO SHIPPING Lines Co., Ltd.; CMA CGM S.A. and APL Co. Pte. Ltd. (acting as a single party); Evergreen Marine Corporation (Taiwan) Ltd.; and Orient Overseas Container Line Limited.

Filing Party: Robert Magovern; Cozen O'Connor.

Synopsis: The Amendment revises Article 2 to add Evergreen Marine (Asia) Pte. Ltd. as a sub-party to the Agreement.

Proposed Effective Date: 8/20/2021.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/1214.

Agreement No.: 201351–001.

Agreement Name: Foundation Carrier Agreement.

Parties: Maersk A/S; CMA CGM S.A. MSC Mediterranean Shipping Company S.A.; Hapag-Lloyd AG; and Ocean Network Express Pte Ltd.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The amendment adds Hapag-Lloyd Aktiengesellschaft and Ocean Network Express Pte Ltd. as parties to the Agreement, and makes corresponding adjustments in Articles 5.1(b), 5.3(c), and 6.4 of the Agreement.

Proposed Effective Date: 8/21/2021.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/36502.

Agreement No.: 201364.

Agreement Name: Agreement Between the City of Los Angeles, the City of Long Beach, Portcheck, LLC, and Marine Terminal Operators.

Parties: Portcheck, LLC; The City of Long Beach Harbor Department; The City of Long Beach Harbor Department; APM Terminals Pacific LLC; Fenix Marine Services, Ltd.; Everport Terminal Services, Inc.; International Transportation Service, LLC; LBCT LLC; Total Terminals International, LLC; West Basin Container Terminal LLC; Pacific Maritime Services, LLC; SSAT (Pier A), LLC; Yusen Terminals LLC; Trapac LLC, and SSA Terminals, LLC.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The Agreement sets forth the terms and conditions under which PortCheck LLC and the marine terminal operators will provide certain services to the ports as provided for in tariffs published by the ports. These services relate to the collection of a clean truck fee in accordance with provisions to be published in the ports' respective tariffs.

Proposed Effective Date: 8/20/2021.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/47525.

Agreement No.: 012214–001.

Agreement Name: Glovis/''K'' Line Space Charter Agreement.

Parties: Kawasaki Kisen Kaisha, Ltd. and Hyundai Glovis Co., Ltd.

Filing Party: John Meade, ''K'' Line America, Inc.

Synopsis: The amendment eliminates the parties' authority to jointly negotiate for covered services under the Agreement and updates the address for Hyundai Glovis.

Proposed Effective Date: 7/1/2021.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/265.

Agreement No.: 201365–002.

Agreement Name: Volkswagen Konzernlogistik GmbH & Co. OHG/NYK Line Space Charter Agreement.

Parties: Volkswagen Konzernlogistik GmbH & Co. OHG and Nippon Yusen Kaisha.

Filing Party: Kristen Chung; NYK Group Americas Inc.

Synopsis: The amendment removes all authority to jointly negotiate or procure terminal services in the United States.

Proposed Effective Date: 7/2/2021.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/60.

Agreement No.: 012386–001.

Agreement Name: K Line/NYK Space Charter Agreement.

Parties: Kawasaki Kisen Kaisha, Ltd. and Nippon Yusen Kaisha.

Filing Party: Kristen Chung; NYK Group Americas Inc.

Synopsis: This amendment removes all authority to jointly negotiate or procure terminal services in the United States.

Proposed Effective Date: 7/2/2021.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/1002.

Dated: July 8, 2021.

Rachel E. Dickon,

Secretary.

[FR Doc. 2021–14926 Filed 7–13–21; 8:45 am]

BILLING CODE 6730–02–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors.

This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than August 13, 2021.

A. Federal Reserve Bank of Boston (Prabal Chakrabarti, Senior Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02210–2204. Comments can also be sent electronically to *BOS.SRC.Applications.Comments@bos.frb.org:*

1. *Independent Bank Corp., (''Independent'') through its subsidiary, Bradford Merger Sub Inc., both of Rockland, Massachusetts;* to merge with Meridian Bancorp, Inc., Peabody, Massachusetts (''Meridian''), with Meridian as the survivor, and thereby indirectly acquire East Boston Savings Bank, Boston, Massachusetts. Immediately after, Meridian to merge with Independent, with Independent as the survivor, and East Boston Savings Bank to merge with and into Rockland Trust, Rockland, Massachusetts, a wholly owned subsidiary bank of Independent, with Rockland Trust as the surviving bank.

Board of Governors of the Federal Reserve System, July 9, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–14997 Filed 7–13–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10341]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice; partial withdrawal.

SUMMARY: On Friday, July 9, 2021, the Centers for Medicare & Medicaid Services (CMS) published a notice entitled, ''Agency Information Collection Activities: Submission for OMB Review; Comment Request.'' That notice invited public comments on three separate information collection requests specific to document identifiers: CMS–10215, CMS–10249, and CMS–10341. Through the publication of this document, we are withdrawing the portion of the notice requesting public comment on the information collection request titled ''Section 1115 Demonstration Projects Regulations at 42 CFR 431.408, 431.412, 431.420, 431.424, and 431.428.'' Form number CMS–10341 (OMB control number 0938–1162). The withdrawn information collection request will be replaced by another 30-day notice in July or August of this year.

DATES: For CMS–10215 and CMS–10249, the original comment period for the notice that published on July 9, 2021, remains in effect and ends August 9, 2021.

SUPPLEMENTARY INFORMATION: In FR document, 2021–14671, published on July 9, 2021 (86 FR 36281), we are withdrawing item 3 ''Section 1115 Demonstration Projects Regulations at 42 CFR 431.408, 431.412, 431.420, 431.424, and 431.428'' which posted on page 36282.

Dated: July 9, 2021.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2021–15005 Filed 7–13–21; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–P–0191]

Determination That STROMECTOL (Ivermectin) Tablets, 6 Milligrams, Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that STROMECTOL (ivermectin) tablets, 6 milligrams (mg), were not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for STROMECTOL (ivermectin) tablets, 6 mg, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Christopher Koepke, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–3600, *Christopher.Koepke@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

STROMECTOL (ivermectin) tablets, 6 mg, are the subject of NDA 050742, held by Merck Sharp and Dohme Corp., and initially approved on November 22, 1996. STROMECTOL is indicated for strongyloidiasis of the intestinal tract and onchocerciasis.

In a letter dated September 14, 2007, Merck and Co., Inc. notified FDA that STROMECTOL (ivermectin) tablets, 6 mg, were being discontinued, and FDA

moved the drug product to the ''Discontinued Drug Product List'' section of the Orange Book.

Foley and Lardner, LLP submitted a citizen petition dated February 16, 2021 (Docket No. FDA–2021–P–0191), under 21 CFR 10.30, requesting that the Agency determine whether STROMECTOL (ivermectin) tablets, 6 mg, were withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that STROMECTOL (ivermectin) tablets, 6 mg, were not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that STROMECTOL (ivermectin) tablets, 6 mg, were withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of STROMECTOL (ivermectin) tablets, 6 mg, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have reviewed the available evidence and determined that this drug product was not withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list STROMECTOL (ivermectin) tablets, 6 mg, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to STROMECTOL (ivermectin) tablets, 6 mg, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: July 7, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–14935 Filed 7–13–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–D–3361]

Eligibility Criteria for Expanded Conditional Approval of New Animal Drugs; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, Health and Human Services (HHS).

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of final guidance for industry (GFI) #261 entitled ''Eligibility Criteria for Expanded Conditional Approval of New Animal Drugs.'' This guidance is intended for sponsors and potential sponsors who may be interested in pursuing conditional approval of new animal drugs for certain major uses in major species. Eligibility for conditional approval has been expanded beyond minor uses in major species and use in minor species (MUMS) to include certain major uses in major species. The Center for Veterinary Medicine (CVM or we) refers to the process for conditionally approving new animal drugs that are not intended for MUMS indications as ''expanded conditional approval.'' The purpose of expanded conditional approval is to incentivize development of new animal drugs for serious or life-threatening conditions or unmet animal or human health needs under circumstances where a demonstration of effectiveness would require a complex or particularly difficult study or studies. This guidance defines certain terms, clarifies the eligibility criteria for expanded conditional approval, and describes the criteria CVM intends to consider when determining expanded conditional approval eligibility.

DATES: The announcement of the guidance is published in the **Federal Register** on July 14, 2021.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–D–3361 for ''Eligibility Criteria for Expanded Conditional Approval of New Animal Drugs.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management

Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to the Policy and Regulations Staff (HFV–6), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Christopher Loss, Center for Veterinary Medicine (HFV–116), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–0619, *christopher.loss@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of September 30, 2019 (84 FR 51594), FDA published the notice of availability for a draft guidance entitled ''Eligibility Criteria for Expanded Conditional Approval of New Animal Drugs'' giving interested persons until January 28, 2020, to comment on the draft guidance. FDA received a few comments on the draft guidance and those comments were considered as the guidance was finalized. Editorial changes were made to improve clarity. The guidance announced in this notice finalizes the draft guidance dated September 2019.

This level 1 guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on eligibility criteria for expanded conditional approval of new animal drugs. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR part 514 have been approved under OMB control number 0910–0032.

III. Electronic Access

Persons with access to the internet may obtain the guidance at either *https://www.fda.gov/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/default.htm, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: July 8, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–14938 Filed 7–13–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–N–1644]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Medical Conference Attendees' Observations About Prescription Drug Promotion

AGENCY: Food and Drug Administration, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by August 13, 2021.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The title of this information collection is ''Medical Conference Attendees' Observations About Prescription Drug Promotion.'' Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Medical Conference Attendees' Observations About Prescription Drug Promotion

OMB Control Number 0910—NEW

Section 1701(a)(4) of the Public Health Service Act (42 U.S.C. 300u(a)(4)) authorizes FDA to conduct research relating to health information. Section 1003(d)(2)(C) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 393(d)(2)(C)) authorizes FDA to conduct research relating to drugs and other FDA regulated products in carrying out the provisions of the FD&C Act.

The Office of Prescription Drug Promotion's (OPDP) mission is to protect the public health by helping to ensure that prescription drug promotion is truthful, balanced, and accurately communicated. OPDP's research program provides scientific evidence to help ensure that our policies related to prescription drug promotion will have the greatest benefit to public health. Toward that end, we have consistently conducted research to evaluate the aspects of prescription drug promotion that are most central to our mission. Our research focuses in particular on three main topic areas: Advertising features, including content and format; target populations; and research quality. Through the evaluation of advertising features, we assess how elements such

as graphics, format, and disease and product characteristics impact the communication and understanding of prescription drug risks and benefits. Focusing on target populations allows us to evaluate how understanding of prescription drug risks and benefits may vary as a function of audience, and our focus on research quality aims at maximizing the quality of our research data through analytical methodology development and investigation of sampling and response issues. This study will inform the first two topic areas, advertising features and target populations.

Because we recognize that the strength of data and the confidence in the robust nature of the findings is improved by utilizing the results of multiple converging studies, we continue to develop evidence to inform our thinking. We evaluate the results from our studies within the broader context of research and findings from other sources, and this larger body of knowledge collectively informs our policies as well as our research program. Our research is documented on our homepage, which can be found at: *https://www.fda.gov/aboutfda/centersoffices/officeofmedicalproductsandtobacco/cder/ucm090276.htm.* The website includes links to the latest **Federal Register** notices and peer-reviewed publications produced by our office. The website maintains information on studies we have conducted, dating back to a survey on direct-to-consumer advertisements conducted in 1999.

The current study focuses on understanding the landscape of healthcare provider (HCP)-directed promotion of prescription drugs at medical conferences in general and, more specifically, how elements of pharmaceutical booths in medical conference exhibit halls impact HCP attendees' perceptions of the drugs that are promoted at those booths. We will first ask attendees who are prescribers within different disciplines (primary care physicians, specialists, nurse practitioners, and physician assistants) general questions about their attendance at medical conferences, including questions about their motivations for attending, activities they participate in (*e.g.,* symposia, poster sessions, social events, exhibit halls), and their opinions about the prescription drug treatments promoted at medical conferences. These questions will allow us to capture the viewpoint of prescribers who attend medical conferences where prescription treatments are discussed and promoted.

The second part of our study will allow us to get more detailed information about interactions in medical conference exhibit halls. A 2006 study found that at least 80 percent of physicians attended at least 1 medical conference each year and spent an average of 7 hours on the exhibit hall floor at each event (Ref. 1). The length of time spent at each booth—between 12 and 21 minutes (Ref. 1)—was comparatively longer than detailing visits in HCP offices, which range from 5 to 10 minutes on average (Refs. 2 and 3). Thus, medical conference exhibit booths provide opportunities for pharmaceutical companies to market to large numbers of HCPs and potentially engage in more lengthy interactions.

Promotional booths for prescription drugs and the promotional materials disseminated at those booths fall within the regulatory purview of OPDP. As with other promotional materials for prescription drugs, pharmaceutical companies may voluntarily submit draft versions of their exhibit panels and exhibit materials for FDA review (Ref. 4). This study is designed to provide insights to inform the advisory comments that OPDP provides to pharmaceutical companies that voluntarily seek FDA review. OPDP also monitors prescription drug promotional booths and materials as part of its surveillance program. Recent compliance letters issued by OPDP described booth or panel displays that communicated misleading information regarding drug efficacy and safety, provided insufficient information on drug risks, and omitted ''material facts'' about the promoted drug (Ref. 5). A primary reason that physicians and other medical professionals report visiting specific exhibitors at conferences is to obtain product information (Ref. 1), and it is important that the information provided by exhibitors to HCPs regarding the risks and efficacy of prescription medications not be false or misleading. Thus, investigating the impact of pharmaceutical booth promotions among medical conference attendees has valuable practical implications for the public health.

As part of our specific exhibit booth research, we will simulate interactions that HCPs may have at medical conference booths promoting prescription drugs, so that FDA can examine the effects of the booth representative's background (scientist/medical professional versus business professional) and disclosure of data limitations (present versus absent). In a recent survey, HCP conference attendees reported that interacting with company representatives was the most important element of their booth visits, followed by the availability and quality of clinical information (Ref. 4). Thus, the perceived credibility of the booth representative and the availability of information on data limitations could ultimately inform HCPs' perceptions of the risks and benefits of drugs presented at exhibit booths and their decisions to prescribe drugs to patients.

Indeed, literature suggests that credibility and disclosures are relevant elements to study in the context of prescription drug conference booths. Credibility is linked to extrinsic (physical attractiveness, power) and intrinsic (delivery factors, linguistic cues) factors. For example, one extrinsic feature of source credibility is similarity between the source and recipient. Research on the effects of source similarity has been mixed, but a classic field experiment by Brock in 1965 found that customers buying paint were more likely to follow recommendations of a salesperson they perceived as having painting experiences similar to their own (Ref. 6). More recent studies have examined the effects of endorsers with professional expertise versus those with product experience on attitudes toward the brand and promotion (Refs. 7 and 8). These past studies are relevant to our manipulations of booth representative background in this study given that representatives with a medical/science background may reflect professional expertise, whereas representatives with a business background may reflect product experience.

There is little empirical evidence on the impact of disclosing data limitations during promotional detailing or other sales promotion. On one hand, providing important information (*e.g.,* key limitations) about the data/drug should help increase comprehension and decrease inaccurate or unjustified interpretations of the data. On the other hand, seeing the disclosure of data limitations—essentially tempering the study findings and providing a sort of two-sided information that is not necessarily in favor of the drug's effects—may improve the material's credibility and appeal by signifying more transparency on the sponsor's part (Ref. 9), and therefore lead to greater interest in the drug (regardless of accurate comprehension). Conversely, not seeing any qualifying or clarifying information could raise red flags among providers, resulting in the lowest levels of perceived credibility. Whether the booth representative has a medical/science background or business background may shape perceptions of credibility even further, thereby influencing HCPs' perceptions of the drug. Thus, while disclosure of data

limitations and credibility of the booth representative may have independent effects on HCPs' comprehension and perceptions, these variables could also interact in their effects.

I. Research Questions

With this background in mind, we plan to address the issue of how firms communicate about prescription drugs from the perspective of medical conference/exhibit hall attendees. Specifically, we will ask for attendees' general observations of:

a. Disclosures or disclaimers accompanying exhibit hall presentations and/or symposia (about data limitations, contrary data, FDA approval status, financial/affiliation sponsorship, etc.);

b. Publications or references accompanying the presentation of information (PI for approved indications, contrary data references, etc.);

c. What type of studies are being reported (real world evidence, pharmacokinetic/pharmacodynamic studies, meta-analyses, etc.).

d. Who makes the presentations (field of study, training); and

e. Where the presentations are made (poster session, scientific floor, exhibit hall); and

We will also address exhibit hall pharmaceutical booth interactions specifically:

a. How does the presence or absence of information about the limitations of data influence perceptions of the promoted product?

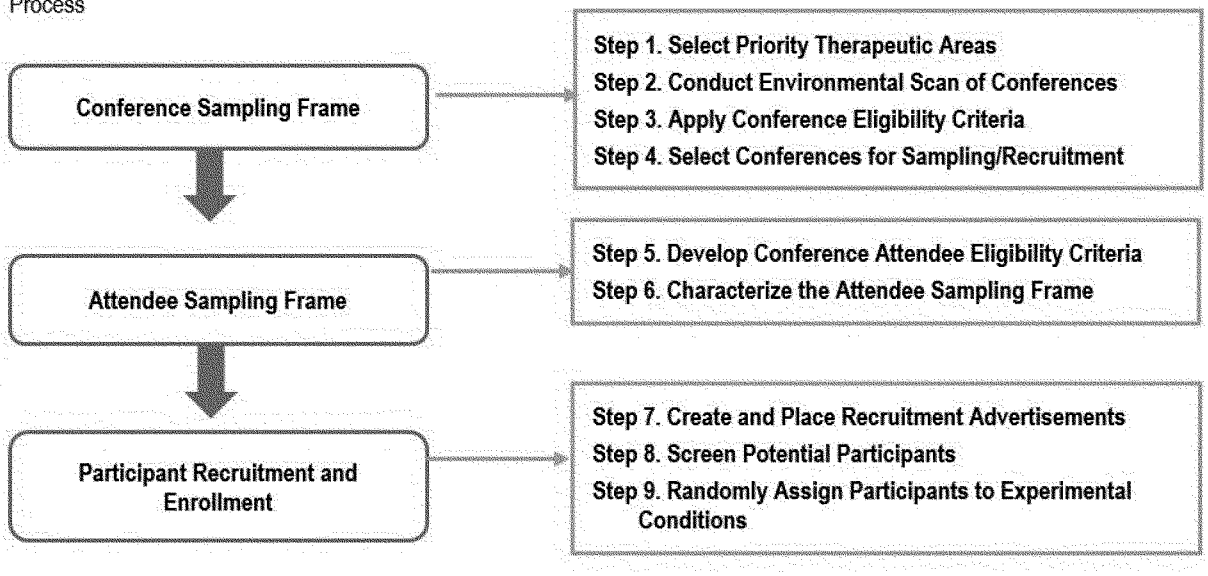
b. How does the background of the booth representative influence perceptions of the promoted product?

c. Do these two variables interact?

II. Method

To complete this research, we will recruit attendees of large medical conferences in the United States over the course of 1 year. These conferences will represent a variety of specialties to reflect medical areas that have prescription treatments that may be promoted to HCPs. Specifically, we will enroll HCPs who attended one of 12 selected medical conferences into an online survey within 7 days of conference attendance. Exhibit 1 summarizes our approach to: (1) Determining the conference sampling frame; (2) determining the attendee sampling frame; and (3) recruiting and enrolling the target sample in the online survey.

Exhibit 1. Sampling Frame and Participant Recruitment Process



In the first step, we will select conferences that focused on therapeutic areas that have the following attributes:

- High number of currently promoted branded medications;
- high volume of prescriptions written;
- large patient population; and
- high amount of new drug development and promotional spending.

Exhibit 2 shows the final criterion for conference inclusion. Conferences that meet these criteria will be selected based on an environmental scan.

EXHIBIT 2—CONFERENCE ELIGIBILITY CRITERIA

Criterion	Parameters
Therapeutic area	Associated with one of the prioritized therapeutic areas.
Conference attendance	Estimated attendance of 5,000 or more individuals.
Target audience	Focused on prescribers and clinicians (*e.g.,* not insurers).
Event date	Scheduled during August 2021–August 2022.
Event location	Domestic (within United States).

Following conference selection, medical conference attendees at each conference will be randomly selected, invited to participate, and screened to ensure they are HCPs with prescribing authority who responded to the survey invitation within 7 days of attending the target conference. HCPs will be limited to physicians, nurse practitioners, and

physician assistants who spend 20 percent or more time in direct patient care, are able to read and speak English, are not currently employed by the Federal government or a pharmaceutical company (not including occasional consulting), and have not participated in another wave of the project.

The online survey will be broken into two main parts: (1) A cross-sectional survey designed to capture HCP observations from the medical conference and (2) an experimental study designed to assess how data disclosures and exhibit booth representative background influence HCP perceptions of promoted prescription drugs. The cross-sectional part of the survey will contain a series of close- and open-ended questions. The experimental study part of the survey will ask participants to view a brief video simulating a conference exhibit hall interaction between an HCP attendee and a booth employee and then answer questions about a fictitious prescription drug featured in the video. Exhibit 3 shows our proposed study design and sample size across 12 conferences.

EXHIBIT 3—STUDY DESIGN AND TARGET SAMPLE SIZES

Disclosure	Booth employee background		Total
	Business	Medical	
Present	*n*=92	*n*=92	184
Absent	*n*=92	*n*=92	184
Total	184	184	368

In the **Federal Register** of September 18, 2020 (85 FR 58366), FDA published a 60-day notice requesting public comment on the proposed collection of information. FDA received six submissions that were PRA-related. One submission (*https://www.regulations.gov/document/FDA-2020-N-1644-0005*) was outside the scope of the research and is not addressed further. Within the remaining five submissions, FDA received multiple comments that the Agency has addressed below. For brevity, some public comments are paraphrased and therefore may not include the exact language used by the commenter. We assure commenters that the entirety of their comments was considered even if not fully captured by our paraphrasing in this document. The following acronyms are used here: HCP = healthcare provider; FDA = Food and Drug Administration; OPDP = FDA's Office of Prescription Drug Promotion.

(Comment 1) Five comments expressed support for conducting this research.

(Response 1) Thank you.

(Comment 2) Three comments noted that changes to the research will be necessary due to changes in medical conferences as a result of the emergence of the COVID–19 pandemic, such as the move to all-virtual conferences.

(Response 2) We agree with these comments. Section 1 of the questionnaire (Video observation) is unaffected by whether participants have recently attended a conference, so we have not changed this section. Section 3 (Typical Conference Behaviors) is also unaffected by recent conference attendance. However, we added an instruction that participants should answer about their behavior prior to COVID–19 restrictions. Most of the questions in Section 4 (Participant Characteristics) are unaffected by recent conference attendance. However, we updated questions about patient load and prescription volume to include both in-person and telemedicine visits. Section 2 (Recent Conference Behavior) does assume participants have recently attended a conference. We have replaced some of the questions that are less likely to be relevant (*e.g.,* receipt of materials) with open-ended questions asking about the exhibit hall experience and interactions with pharmaceutical company representatives during a virtual conference.

(Comment 3) One comment suggested adding a control arm comprised of physicians who have not attended a medical conference during the same period and asking them about their perceptions of the same products in order to determine to what extent medical conferences are influencing physician perceptions of products.

(Response 3) This comment is outside the scope of the current research. Researchers may want to explore additional questions in this area for future studies.

(Comment 4) One comment suggested that because the video is not interactive, it may not capture all possible questions that a conference attendee may have.

(Response 4) The comment is correct that the video consists of a prerecorded interaction between a conference attendee and a booth representative. We recognize that this does not cover all possible communications at a conference. We appreciate the suggestion about the use of interactive simulation, but it would disrupt the experimental design by creating unnecessary variation in the stimuli. The limitations of the current method will be transparent in the dissemination of our findings.

(Comment 5) Two comments mentioned that, if we are concerned about subject bias, differences in age, gender, and race/ethnicity between the pharmaceutical representative and the prescriber in the video should be controlled for.

(Response 5) The videos are identical in every way except for the job description of the booth representative and whether a disclosure is present to the data described. This means that not only are the actors the same, but almost all footage in the video is the same. Additionally, participants will be randomly assigned to experimental conditions. Thus, age, gender, and race/ethnicity will not factor into our assessment of whether a booth representative's job description or the presence of a disclosure influences participant responses.

(Comment 6) Two comments cautioned FDA against drawing conclusions about all promotional details based on survey responses for one video. These comments suggested that FDA use multiple videos, rather than just one, to depict different approaches to promotion and re-design the study to conduct a post-conference message recall study to allow FDA to better meet the objectives of the study.

(Response 6) The current study is largely a survey about medical conference attendance in general and more specifically at a recent conference. Our objective, as outlined in the text of the 60-day notice, is to use those questions to assess self-reported opinions about participants' experiences at a variety of conferences. Within the study is an embedded experimental

manipulation to address two very specific questions: whether the credentials of a booth representative make a difference in terms of the observers' perceptions of the promoted product, and whether a disclosure of information is processed by observers. In this part, participants will see one of four videos that are identical except for the credentials of the booth representative and the presence or absence of a disclosure. FDA will not use the video to generalize beyond these questions. Because participants will be randomly assigned to video conditions, we will be able to make causal claims—but only about the specific items (credentials and disclosure) we vary.

(Comment 7) One comment requested that we provide the public with an opportunity to preview and comment on the videos to be used in future research proposals.

(Response 7) Our full stimuli are under development during the PRA process. We do not make draft stimuli public during this time because of concerns that this may contaminate our participant pool and compromise our research. In our research proposals, we describe the purpose of the study, the design, the population of interest, and the estimated burden.

(Comment 8) One comment mentioned that although limiting participants to those who respond to the survey within 7 days creates a selection bias, it is a feasible method. The comment suggested that we also screen for amount of time participants spent on the exhibit hall floor, rather than relying on average numbers of hours spent at exhibition halls.

(Response 8) We are limiting the sample to participants who attended a medical conference within 7 days to minimize retrospective errors that may occur as time passes. We appreciate the suggestion that we add a question about how much time is spent at the exhibition hall, and we have incorporated it into the questionnaire.

(Comment 9) One comment suggested that, given the international scope of many conferences, the screener should ensure that HCPs practice in the United States.

(Response 9) Our sample will be limited to U.S.-based HCPs with prescribing authority.

(Comment 10) One comment suggested that specific knowledge of OPDP regulatory requirements may be limited and, if known, it may increase credibility of booth representatives. The commenter suggests adding questions about regulatory knowledge.

(Response 10) Past OPDP studies have examined HCPs' familiarity with promotional regulation (*e.g.,* OMB control number 0910–0869). We have consistently found that only a small percentage of providers know whether FDA regulates prescription drug promotion, and we believe even fewer would have specific knowledge of OPDP's particular regulatory authorities. Given that we have investigated this topic in the past and we find most providers to be unfamiliar with regulatory roles, we will leave such questions out of the study to reduce burden.

(Comment 11) One comment suggested the inclusion of additional questions about the perceived credibility of the booth representative, the likelihood of recommending the prescription drug, or the desire to conduct further inquiries for the product.

(Response 11) We have included questions about booth representative credibility and intention to prescribe.

(Comment 12) One comment suggested that it would be useful to add questions about the participants' backgrounds, such as familiarity with prescription drug promotion, age, specialty, personal medical/professional school debt, exposure to pharmaceutical marketing practices, and whether they practice in an urban or rural area.

(Response 12) We have questions about age, medical specialty, and exposure to pharmaceutical marketing practices. We will include a question about the rural versus urban location of their practices. We decline to ask about personal medical school debt because it is not clear how this will influence pharmaceutical promotions in a conference exhibit hall.

(Comment 13) One comment suggested adding questions about aspects of promotional exhibit halls other than the booth representative.

(Response 13) This comment is outside the scope of the current research. Researchers may want to explore additional questions in this area for future studies.

(Comment 14) One comment noted that it would be helpful to track whether advertisements outside of the exhibit hall encouraged providers to visit certain booths within the exhibit halls.

(Response 14) This comment is outside the scope of the current research. Researchers may want to explore additional questions in this area for future studies.

(Comment 15) One comment recommended keeping the focus of Section 2 (recent conference behaviors) on general conference behaviors and moving all product perception questions to Section 1.

(Response 15) Section 1 involves the specific manipulation of booth representative credentials and the presence/absence of a disclosure. Section 2 involves asking participants about a recent conference experience. The advantage of this approach is that we can get more specific information not influenced by retrospective guessing. The opportunity to ask specific questions is one of the strengths of the current study.

(Comment 16) One comment mentioned that the questions make use of the term ''booth,'' while the **Federal Register** notice speaks to ''promotional booth'' and suggested that the survey questions use the term ''promotional booth'' for clarity and consistency.

(Response 16) We have made this change.

(Comment 17) One comment mentioned that the questions use the term ''industry representative'' or ''drug representative'' and suggested the survey employ the term ''industry representative'' exclusively to ensure clarity and consistency.

(Response 17) We have revised the questionnaire to consistently use the term ''industry representative.''

(Comment 18) One comment suggested we change the wording of questions using the term ''exhibit hall'' to refer instead to ''promotional booths located in the exhibit hall,'' which is more focused.

(Response 18) We have made this change.

(Comment 19) One comment suggested that for Questions 6–11, the survey taker's responses can be influenced by other factors not necessarily related to the content provided in the video, thus leading to inconclusive results about the video presented.

(Response 19) Questions 6–11 refer to the experimental manipulation in the video (see Response 6). Because we will have random assignment to condition and the only differences in the videos will be the credentials of the booth representative and the presence or absence of a disclosure, we will be able to make causal claims if we see differences in responses across conditions.

(Comment 20) One comment suggested that to eliminate the risk of bias in the survey questions related to safety and efficacy, study participants should be asked *whether* they think that the promoted drug is safer and *whether* they think that the promoted drug is more efficacious as compared to another drug.

(Response 20) This comment appears to refer to Questions 8 and 9. These are

validated questions that have been used in previous studies (Ref. 10). Development and validation of prescription drug risk, efficacy, and benefit perception measures in the context of direct-to-consumer prescription drug advertising. *Research in Social and Administrative Pharmacy*). Moreover, the scale ranges from ''Strongly Agree'' to ''Strongly Disagree,'' so no bias is implied.

(Comment 21) One comment suggested that Questions 13 and 14 are specific to one risk and that this risk may not pertain to all situations, such as treatments for serious and life-threatening conditions. The comment expressed confusion regarding how conclusions from these questions can be applied to all drugs promoted at a convention.

(Response 21) We specifically ask questions about this risk because this is the risk that relates to the disclosure manipulation. These questions will be used to determine if the presence of a disclosure influences participants' responses to the relevant information in the ad.

(Comment 22) One comment suggested that Questions 22 and 23 should be reworded to define what part of the conference (poster session, exhibit hall, oral sessions, etc.) the words ''conference sessions'' are referring to.

(Response 22) We have now specified ''oral and poster sessions'' in these questions.

(Comment 23) One comment suggested that followup questions should be added for participants that answer ''Yes'' to Question 24 as follows:

What was the background of the person who made this presentation?

- *Answer Options:* Scientific background, Business background.

What part of the conference was this presentation presented at?

- *Answer Options:* Symposia/Oral sessions, Workshops, Poster sessions, Exhibit hall.

(Response 23) We considered adding these questions to the questionnaire. However, after adapting the survey for a current and post-COVID–19 world, these questions were ultimately not included so that the information collection could stay within the proposed burden estimate.

(Comment 24) One comment suggested that Question 30 should be reworded so that it is specific to the particular types of materials checked in Question 29.

(Response 24) We have removed Question 30 from the questionnaire due to time constraints.

(Comment 25) One comment recommended the addition of a choice that reads, ''met with the sales representative virtually,'' for Question 51, as this has been occurring more frequently during the COVID–19 pandemic.

(Response 25) This response option was added.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

	Number of respondents	Number of responses per respondent	Total annual respondents	Average burden per response	Total hours
Screener	933	1	933	.08 (5 minutes)	74.64
Pretest	25	1	25	.33 (20 minutes)	8.25
Main test	368	1	368	.33 (20 minutes)	121.44
Total					204.33

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

III. References

The following references marked with an asterisk (*) are on display at the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they also are available electronically at *https://www.regulations.gov.* References without asterisks are not on public display at *https://www.regulations.gov* because they have copyright restriction. Some may be available at the website address, if listed. References without asterisks are available for viewing only at the Dockets Management Staff. FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. Mack, J. (2006, March). ''Effective Physician Marketing at Medical Meeting Exhibits.'' *Pharma Marketing News,* 5(3).
2. * Industry Standard Report. (2014). ''Pharmaceutical Detailing: In-Person vs. Electronic vs. Phone.'' Retrieved from *https://www.isrreports.com/wp-content/uploads/2014/08/ISR-Pharmaceutical-Detailing-In-Person-vs.-Electronic-vs.-Phone-Preview-Aug2014.pdf.*
3. * Steinman, M.A., G.M. Harper, M.M. Chren, et al. (2007, April). ''Characteristics and Impact of Drug Detailing for Gabapentin.'' *PLoS Med,* 4(4), e134. *http://dx.doi.org/10.1371/journal.pmed.0040134.*
4. * Adler, D., Manager Marketing Analytics, A. Sherman, Client Services, and M. Walz. (2017). ''Medical Conference Presence: Is it Worth it for your Brand?'' Retrieved from *https://www.pharmavoice.com/article/2017-9-medical-conferences/.*
5. * FDA. Warning letters and notice of violation letters to pharmaceutical companies. Retrieved from *https://www.fda.gov/drugs/enforcement-activities-fda/warning-letters-and-notice-violation-letters-pharmaceutical-companies.*
6. Brock, T.C. (1965, June). ''Communicator-Recipient Similarity and Decision Change.'' *Journal of Personality & Social Psychology,* 1, 650–654.
7. Braunsberger, K. and J.M. Munch (1998). ''Source Expertise Versus Experience Effects in Hospital Advertising.'' *Journal of Services Marketing,* 12(1), 23–38.
8. Siemens, J.C., S. Smith, D. Fisher, and T.D. Jensen (2008). ''Product Expertise Versus Professional Expertise: Congruency Between an Endorser's Chosen Profession and the Endorsed Product.'' *Journal of Targeting, Measurement and Analysis for Marketing,* 16(3), 159–168.
9. Pechmann, C. (1992). ''Predicting When Two-Sided Ads Will Be More Effective Than One-Sided Ads: The Role of Correlational and Correspondent Inferences.'' *Journal of Marketing Research,* 29(4), 441–453.
10. Kelly, B.J., D.J. Rupert, K.J. Aikin, et al. (2021). ''Development and Validation of Prescription Drug Risk, Efficacy, and Benefit Perception Measures in the Context of Direct-to-Consumer Prescription Drug Advertising.'' *Research in Social and Administrative Pharmacy,* 17(5), 942–955.

Dated: July 7, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–14936 Filed 7–13–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel; NEI Mentored Clinical Scientist Research Career Development Applications (K08/K23).

Date: July 29, 2021.

Time: 10:00 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Eye Institute, National Institutes of Health, 6700 B Rockledge Drive, Suite 3400, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ashley Fortress, Ph.D., Designated Federal Official, Division of Extramural Activities, National Eye Institute, National Institutes of Health, 6700 B Rockledge Drive, Suite 3400, Bethesda, MD 20817, (301) 451–2020, *ashley.fortress@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: July 8, 2021.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–14920 Filed 7–13–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Regents of the National Library of Medicine.

The meeting will be open to the public as indicated below, with virtual attendance.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for review, discussion, and evaluation of individual intramural programs and projects conducted by the National Library of Medicine, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Regents of the National Library of Medicine.

Date: September 14, 2021.

Open: September 14, 2021, 10:00 a.m. to 3:30 p.m.

Agenda: Program Discussion.

Place: Virtual Meeting.

Closed: September 14, 2021, 3:30 p.m. to 4:00 p.m.

Agenda: Board of Scientific Counselors report on NLM's intramural programs and individual investigator reviews.

Closed: September 14, 2021, 4:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Contact Person: Christine Ireland, Committee Management Officer, Division of Extramural Programs, National Library of Medicine, 6705 Rockledge Drive, Suite 500, Bethesda, MD 20892, 301–594–4929, *irelanc@mail.nih.gov.*

Any member of the public may submit written comments no later than 15 days in advance of the meeting. Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *www.nlm.nih.gov/od/bor/bor.html* where an agenda and any additional information for the meeting will be posted when available. This meeting will be broadcast to the public, and available for viewing at *http://videocast.nih.gov* on September 14, 2021.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS).

Dated: July 8, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–14894 Filed 7–13–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Approaches to Effective Therapeutic Management of Pain for People With Sickle Cell Disease

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: This NCCIH/NHLBI-led Trans-NIH workshop on Sickle Cell Disease Pain aims to explore critical gaps and research challenges, as well as to brainstorm potential solutions for this understudied pain condition in a highly underserved population. This fits into the NIH mission of seeking fundamental knowledge to enhance health.

DATES: The Meeting will be held on July 21–22, 2021, from 11:30 a.m. to 5:30 p.m. (ET).

ADDRESSES: This workshop will be videocast.

FOR FURTHER INFORMATION CONTACT: For information concerning this meeting, see *https://www.nccih.nih.gov/news/events/approaches-to-effective-therapeutic-management-of-pain-for-people-with-sickle-cell-disease* or contract Dr. Inna Belfer, Division of Extramural Research, National Center for Complementary and Integrative Health, 6707 Democracy Boulevard, Suite 401, Bethesda, MD 20892, telephone: 240–422–0636, email: *inna.belfer@nih.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the Public Health Service Act 42 U.S.C. 287c–21 *et seq.* This workshop is led by the National Center for Complementary and Integrative Health (NCCIH) and the National Heart, Lung, and Blood Institute (NHLBI) in collaboration with the *Eunice Kennedy Shriver* National Institute of Child Health and Human Development (NICHD), National Institute on Drug Abuse (NIDA), National Institute on Minority Health and Health Disparities (NIMHD), National Institute of Neurological Disorders and Stroke (NINDS), and National Institute of Nursing Research (NINR). The workshop is free and open

to the public. The workshop will be livestreamed, and the video will be archived. You can register for this meeting at *https://www.eventbrite.com/e/trans-nih-workshop-on-sickle-cell-disease-pain-tickets-154427600109.*

Helene M. Langevin,

Director, National Center for Complementary and Integrative Health, National Institutes of Health.

[FR Doc. 2021–14921 Filed 7–13–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; NINDS–HEAL K24 Review Panel.

Date: July 26, 2021.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: DeAnna Lynn Adkins, Ph.D., Scientific Review Officer, Scientific Review Branch, NSC Building Rockville, MD 20852, 301–496–9223, *deanna.adkins@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: July 8, 2021.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–14930 Filed 7–13–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Mechanism for Time-Sensitive Drug Abuse Research.

Date: July 27, 2021.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sheila Pirooznia, Ph.D., Scientific Review Officer, Division of Extramural Review, Scientific Review Branch, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 496–9350, *sheila.pirooznia@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: July 8, 2021.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–14931 Filed 7–13–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2021–0002; Internal Agency Docket No. FEMA–B–2144]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before October 12, 2021.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2144, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400

C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Grand Traverse County, Michigan (All Jurisdictions) Project: 13–05–4239S Preliminary Dates: July 17, 2020 and March 31, 2021	
Charter Township of East Bay	East Bay Township Hall, 1965 North Three Mile Road, Traverse City, MI 49696.
Charter Township of Garfield	Garfield Township Hall, 3848 Veterans Drive, Traverse City, MI 49684.
City of Traverse City	City Hall, 400 Boardman Avenue, Traverse City, MI 49684.
Grand Traverse Band of Ottawa and Chippewa Indians	Grand Traverse Band of Ottawa and Chippewa Indians, Tribal Government, 2605 North West Bay Shore Drive, Peshawbestown, MI 49682.
Township of Acme	Acme Township Hall, 6042 Acme Road, Williamsburg, MI 49690.
Township of Blair	Blair Township Hall, 2121 County Road 633, Grawn, MI 49637.
Township of Paradise	Paradise Township Hall, 2300 East M–113, Kingsley, MI 49649.
Township of Peninsula	Peninsula Township Hall, 13235 Center Road, Traverse City, MI 49686.
Township of Whitewater	Whitewater Township Hall, 5777 Vinton Road, Williamsburg, MI 49690.

[FR Doc. 2021–14989 Filed 7–13–21; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2021–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below. The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The date of October 21, 2021 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified

flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *https://msc.fema.gov* by the date indicated above.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Kern County, California and Incorporated Areas Docket No.: FEMA–B–2038	
City of Bakersfield	Development Services, 1715 Chester Avenue, Bakersfield, CA 93301.
Unincorporated Areas of Kern County	Kern County Public Works Department, 2700 M Street, Suite 500, Bakersfield, CA 93301.
Boone County, Iowa and Incorporated Areas Docket Nos.: FEMA–B–2005 and FEMA–B–2045	
City of Beaver	City Hall, 121 3rd Street, Beaver, IA 50031.
City of Berkley	Berkley City Hall, 266 284th Street, Perry, IA 50220.
City of Boone	City Hall Building Department, 923 8th Street, Boone, IA 50036.
City of Boxholm	City Hall, 106 Elm Street, Boxholm, IA 50040.
City of Fraser	Fraser City Hall, 1008 157th Street, Boone, IA 50036.
City of Madrid	City Hall, 304 South Water Street, Madrid, IA 50156.
City of Ogden	City Hall, 513 West Walnut Street, Ogden, IA 50212.
City of Pilot Mound	City Hall, 112 Pilot Street, Pilot Mound, IA 50223.
City of Woodward	City Hall, 105 East 2nd Street, Woodward, IA 50276.
Unincorporated Areas of Boone County	Boone County Courthouse, 201 State Street, Boone, IA 50036.
Des Moines County, Iowa and Incorporated Areas Docket No.: FEMA–B–1910 and FEMA–B–2036	
City of Burlington	Development Department, 400 Washington Street, Burlington, IA 52601.
City of Danville	City Hall, 105 West Shepherd Street, Danville, IA 52623.
City of Mediapolis	City Hall, 510 Main Street, Mediapolis, IA 52637.
City of West Burlington	City Hall, 122 Broadway Street, West Burlington, IA 52655.
Unincorporated Areas of Des Moines County	Southeast Iowa Regional Planning Commission, 211 North Gear Avenue, Suite 100, West Burlington, IA 52655.
Iowa County, Iowa and Incorporated Areas Docket No.: FEMA–B–2018	
City of Ladora	City Hall, 806 Pacific Street, Ladora, IA 52251.
City of Marengo	City Hall, 153 East Main Street, Marengo, IA 52301.
City of North English	City Hall, 200 South Main Street, North English, IA 52316.
City of Victor	City Hall, 707 2nd Street, Victor, IA 52347.
City of Williamsburg	City Hall, 210 West State Street, Williamsburg, IA 52361.
Unincorporated Areas of Iowa County	Auditor's Office, 970 Court Avenue, Marengo, IA 52301.
Ottawa County, Michigan (All Jurisdictions) Docket No.: FEMA–B–2019	
Charter Township of Grand Haven	Charter Township Administrative Offices, 13300 168th Avenue, Grand Haven, MI 49417.
Charter Township of Holland	Charter Township Office, 353 North 120th Avenue, Holland, MI 49424.
City of Ferrysburg	City Hall, 17290 Roosevelt Road, Ferrysburg, MI 49409.
City of Grand Haven	City Hall, 519 Washington Avenue, Grand Haven, MI 49417.

Community	Community map repository address
City of Holland	City Hall, 270 South River Avenue, Holland, MI 49423.
Township of Olive	Olive Township Office, 6480 136th Avenue, Holland, MI 49424.
Township of Park	Park Township Office, 52 152nd Avenue, Holland, MI 49424.
Township of Port Sheldon	Port Sheldon Township Hall, 16201 Port Sheldon Street, West Olive, MI 49460.
Township of Spring Lake	Township Hall, 101 South Buchanan Street, Spring Lake, MI 49456.
Village of Spring Lake	Village Hall, 102 West Savidge Street, Spring Lake, MI 49456.
Wayne County, Michigan (All Jurisdictions) Docket No.: FEMA–B–1945	
Charter Township of Brownstown	Township Hall, 21313 Telegraph Road, Brownstown, MI 48183.
City of Detroit	Coleman A. Young Municipal Center, 2 Woodward Avenue, Suite 401, Detroit, MI 48226.
City of Ecorse	Albert B. Buday Civic Center, 3869 West Jefferson Avenue, Ecorse, MI 48229.
City of Gibraltar	City Hall, 29450 Munro Avenue, Gibraltar, MI 48173.
City of Grosse Pointe	City Hall, 17147 Maumee Avenue, Grosse Pointe, MI 48230.
City of Grosse Pointe Farms	City Hall, 90 Kerby Road, Grosse Pointe Farms, MI 48236.
City of Grosse Pointe Park	City Hall, 15115 East Jefferson Avenue, Grosse Pointe Park, MI 48230.
City of River Rouge	Civic Center, 10600 West Jefferson Avenue, River Rouge, MI 48218.
City of Riverview	City Hall, 14100 Civic Park Drive, Riverview, MI 48193.
City of Rockwood	City Hall, 32409 Fort Road, Rockwood, MI 48173.
City of Trenton	City Hall, 2800 Third Street, Trenton, MI 48183.
City of Wyandotte	City Hall, 3200 Biddle Avenue, Suite 200, Wyandotte, MI 48192.
Township of Grosse Ile	Township Hall, 9601 Groh Road, Grosse Ile, MI 48138.
Village of Grosse Pointe Shores	Village Offices, 795 Lake Shore Road, Grosse Pointe Shores, MI 48236.
Essex County, Virginia and Incorporated Areas Docket No.: FEMA–B–2017	
Unincorporated Areas of Essex County	Essex County Building and Zoning Department, 202 South Church Lane, Tappahannock, VA 22560.
Gloucester County, Virginia (All Jurisdictions) Docket No.: FEMA–B–2027	
Unincorporated Areas of Gloucester County	Gloucester County Office Building 2, 6489 Main Street, Suite 247, Gloucester, VA 23061.
King and Queen County, Virginia (All Jurisdictions) Docket No.: FEMA–B–2027	
Unincorporated Areas of King and Queen County	King and Queen County Administrator's Office, 242 Allens Circle, Suite L, King and Queen Court House, VA 23085.
New Kent County, Virginia (All Jurisdictions) Docket No.: FEMA–B–2027	
Unincorporated Areas of New Kent County	New Kent County Administration Building, 12007 Courthouse Circle, New Kent, VA 23124.
Yakima County, Washington and Incorporated Areas Docket No.: FEMA–B–1910	
City of Tieton	City Hall, 418 Maple Street, Tieton, WA 98947.
City of Yakima	City Hall, 129 North 2nd Street, Yakima, WA 98901.
Unincorporated Areas of Yakima County	Yakima County Public Services, 128 North 2nd Street, Yakima, WA 98901.

[FR Doc. 2021–14990 Filed 7–13–21; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2021–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below. The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The date of October 7, 2021 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *https://msc.fema.gov* by the date indicated above.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Henry County, Iowa and Incorporated Areas Docket No.: FEMA–B–1945 and FEMA–B–2036	
City of Mount Pleasant	City Hall, 307 East Monroe Street, Mount Pleasant, IA 52641.
City of Olds	City Hall, 111 South Main Street, Olds, IA 52647.
City of Rome	Rome City Hall, 104 East Maple Street, Mount Pleasant, IA 52641.
City of Westwood	Westwood City Hall, 3952 Sycamore Drive, Mount Pleasant, IA 52641.
City of Winfield	City Hall, 115 North Locust Street, Winfield, IA 52659.
Unincorporated Areas of Henry County	Henry County Courthouse, 100 East Washington Street, Mount Pleasant, IA 52641.
Palo Alto County, Iowa and Incorporated Areas Docket No.: FEMA–B–2018	
City of Curlew	Town Hall, 102 Godwit, Curlew, IA 50527.
City of Cylinder	City Building, 217 Main Street, Cylinder, IA 50528.
City of Emmetsburg	City Hall, 2021 Main Street, Emmetsburg, IA 50536.
City of West Bend	City Hall, 301 South Broadway Avenue, West Bend, IA 50597.
Unincorporated Areas of Palo Alto County	Palo Alto County Emergency Management Office, 1907 11th Street, Emmetsburg, IA 50536.
Tama County, Iowa and Incorporated Areas Docket Nos.: FEMA–B–1957 and FEMA–B–2036	
City of Chelsea	City Hall, 600 Station Street, Chelsea, IA 52215.
City of Clutier	City Hall, 214 Main Street, Clutier, IA 52217.
City of Dysart	City Hall, 601 Wilson Street, Dysart, IA 52224.
City of Elberon	City Hall, 106 Main Street, Elberon, IA 52225.
City of Garwin	City Hall, 208 Main Street, Garwin, IA 50632.
City of Gladbrook	City Hall, 319 2nd Street, Gladbrook, IA 50635.
City of Montour	City Hall, 102 East Elm Street, Montour, IA 50173.
City of Tama	City Hall, 305 Siegel Street, Tama, IA 52339.

Community	Community map repository address
City of Toledo	City Hall, 1007 South Prospect Drive, Toledo, IA 52342.
City of Traer	City Hall, 649 2nd Street, Traer, IA, 50675.
City of Vining	City Hall, 407 1st Street, Vining, IA, 52348.
Sac and Fox Tribe of the Mississippi	Meskwaki Natural Resources Office, 1826 340th Street, Tama, IA 52339.
Unincorporated Areas of Tama County	Tama County Administration Building, 104 West State Street, Toledo, IA 52342.
Muskegon County, Michigan (All Jurisdictions) Docket No.: FEMA–B–2033	
Charter Township of Fruitport	Charter Township Hall, 5865 Airline Road, Fruitport, MI 49415.
Charter Township of Muskegon	Charter Township Hall, 1990 East Apple Avenue, Muskegon, MI 49442.
City of Montague	City Hall, 8778 Ferry Street, Montague, MI 49437.
City of Muskegon	City Hall, 933 Terrace Street, Muskegon, MI 49440.
City of Muskegon Heights	City Hall, 2724 Peck Street, Muskegon Heights, MI 49444.
City of North Muskegon	City Hall, 1502 Ruddiman Drive, North Muskegon, MI 49445.
City of Norton Shores	City Hall, 4814 Henry Street, Norton Shores, MI 49441.
City of Whitehall	City Hall, 405 East Colby Street, Whitehall, MI 49461.
Township of Fruitland	Fruitland Township Hall, 4545 Nestrom Road, Whitehall, MI 49461.
Township of Laketon	Laketon Township Hall, 2735 West Giles Road, North Muskegon, MI 49445.
Township of Montague	Township Hall, 8915 Whitbeck Road, Montague, MI 49437.
Township of Whitehall	Township Hall, 7644 Durham Road, Whitehall, MI 49461.
Township of White River	White River Township Hall, 7386 Post Road, Montague, MI 49437.
Village of Fruitport	Village Hall, 45 North 2nd Avenue, Fruitport, MI 49415.
Yellow Medicine County, Minnesota and Incorporated Areas Docket No.: FEMA–B–1945	
City of Canby	City Hall, 110 Oscar Avenue North, Canby, MN 56220.
City of Granite Falls	City Hall, 641 Prentice Street, Granite Falls, MN 56241.
City of Hanley Falls	City Hall, 109B 1st Street North, Hanley Falls, MN 56245.
City of Porter	City Hall, 301 Lone Tree Street, Porter, MN 56280.
City of Wood Lake	City Hall, 88 2nd Avenue West, Wood Lake, MN 56297.
Unincorporated Areas of Yellow Medicine County	Yellow Medicine Planning and Zoning Office, 1000 Tenth Avenue, Suite 2, Clarkfield, MN 56223.
Upper Sioux Community	Upper Sioux Community Tribal Office, 5722 Travers Lane, Granite Falls, MN 56241.
Nemaha County, Nebraska and Incorporated Areas Docket No.: FEMA–B–2012	
City of Auburn	Auburn City Hall, 1101 J Street, Auburn, NE 68305.
City of Peru	City Hall, 614 5th Street, Peru, NE 68421.
Unincorporated Areas of Nemaha County	Register of Deeds, Nemaha County Courthouse, 1824 N Street, Suite 201, Auburn, NE 68305.
Village of Brock	Johnson Village Office, 224 Main Street, Johnson, NE 68378.
Village of Brownville	Village Office, 223 Main Street, Brownville, NE 68321.
Village of Julian	Community Building/Fire Hall, 104 West Street, Julian, NE 68379.
Village of Nemaha	Village Office, 404 1st Street, Nemaha, NE 68414.
Richardson County, Nebraska and Incorporated Areas Docket No.: FEMA–B–2012	
City of Falls City	City Clerk's Office, 2307 Barada Street, Falls City, NE 68355.
City of Humboldt	City Clerk's Office, 330 East Square Street, Humboldt, NE 68376.
Iowa Tribe of Kansas and Nebraska	Iowa Tribal Office, 3345 B Thrasher Road, White Cloud, KS 66094.
Sac and Fox Nation of Missouri, Kansas and Nebraska	Sac and Fox Tribal Office, 305 North Main Street, Reserve, KS 66434.
Unincorporated Areas of Richardson County	Richardson County Clerk's Office, 1700 Stone Street, Falls City, NE 68355.
Village of Dawson	Village Clerk's Office, 921 Ridge Street, Dawson, NE 68337.
Village of Preston	Board Chair's Home, 65606 704th Trail, Falls City, NE 68355.
Village of Rulo	Village Clerk's Office and Home, 66300 703 Lane, Rulo, NE 68431.
Village of Salem	Community Building, 205 East Main Street, Salem, NE 68433.
Village of Stella	Community Building, 222 North Main Street, Stella, NE 68442.
Village of Verdon	Village Clerk's Office, 314 Main Street, Verdon, NE 68457.

[FR Doc. 2021–14991 Filed 7–13–21; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2021–0002; Internal Agency Docket No. FEMA–B–2150]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before October 12, 2021.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2150, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Roosevelt County, New Mexico and Incorporated Areas Project: 20–06–0114S Preliminary Date: March 26, 2021	
City of Portales	Memorial Building, 200 East 7th Street, Portales, NM 88130.
Town of Elida	Town Hall, 704 Clark Street, Elida, NM 88116.
Unincorporated Areas of Roosevelt County	Roosevelt County Courthouse, Planning Department, 109 West 1st Street, Portales, NM 88130.
Village of Floyd	Roosevelt County Courthouse, Planning Department, 109 West 1st Street, Portales, NM 88130.

[FR Doc. 2021–14993 Filed 7–13–21; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Extension of Agency Information Collection Activity Under OMB Review; Airport Security

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-Day notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0002, abstracted below to OMB for review and approval of an extension of the currently approved collection under the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection includes requirements for airport operators to submit certain information to TSA, as well as to maintain and update records to ensure compliance with security provisions set forth in agency rules.

DATES: Send your comments by August 13, 2021. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection, OMB control number 1652–0034, by selecting ''Currently under Review—Open for Public Comments'' and by using the find function.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh, TSA PRA Officer, Information Technology (IT), TSA–11, Transportation Security Administration, 6595 Springfield Center Drive, Springfield, VA 20598–6011; telephone (571) 227–2062; email *TSAPRA@tsa.dhs.gov.*

SUPPLEMENTARY INFORMATION: TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on December 23, 2020, 85 FR 83986.

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be available at *http://www.reginfo.gov* upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: Airport Security Part 1542.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 1652–0002.

Forms(s): NA.

Affected Public: Airport operators.

Abstract: The information collection is used to determine compliance with 49 CFR part 1542 and to ensure passenger safety and security by ensuring compliance with airport operator required security procedures. The following information collections and other recordkeeping requirements with which respondent covered airport operators must comply fall under this OMB control number: (1) Development of an Airport Security Program (ASP), submission to TSA, and implementation; (2) as applicable, development of airport operator requested or TSA-required ASP amendments and temporary changed conditions, submission to TSA, and implementation; (3) collection of data necessary to complete a criminal history records check (CHRC) for those individuals with unescorted access authority to a Security Identification Display Area (SIDA) or Sterile Area; (4) submission to TSA of identifying information about individuals to whom the airport operator has issued identification media, such as name, address, and country of birth, in order for TSA to conduct a Security Threat Assessment (STA); and (5) information collection and recordkeeping requirements associated with airport operator compliance with regulations and Security Directives.

Number of Respondents: 438.

Estimated Annual Burden Hours: An estimated 1,903,841 hours annually.[1]

Dated: July 8, 2021.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Information Technology.

[FR Doc. 2021–14898 Filed 7–13–21; 8:45 am]
BILLING CODE 9110–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR 7034–N–39; OMB Control No.: 2577–0191]

30-Day Notice of Proposed Information Collection: Application for the Community Development Block Grant (ICDBG) Program for Indian Tribes and Alaska Native Villages

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* August 13, 2021.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/Start Printed Page 15501PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

[1] The annual burden has been updated since the publication of the 60-day notice, which reported 1,893,351.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on March 25, 2021 at 86 FR 15959.

A. Overview of Information Collection

Title of Information Collection: Application for the Community Development Block Grant (ICDBG) Program for Indian Tribes and Alaska Native Villages.

OMB Approval Number: 2577–0191.

Type of Request: Extension of currently approved collection.

Form Number: HUD–4123, HUD–4125. SF–424, HUD–2880, HUD–2993, SF–425, HUD–2516.

Description of the need for the information and proposed use: Title I of the Housing and Community Development Act of 1974 authorizes Indian Community Development Block Grants (ICDBG) and requires that grants be awarded annually on a competitive basis (or in the case of Imminent Threat grants, on an as-needed basis). The purpose of the ICDBG program is to develop viable Indian and Alaska Native communities by creating decent housing, suitable living environments, and economic opportunities primarily for low- and moderate-income persons. Consistent with this objective, not less than 70 percent of the expenditures are to benefit low- and moderate-income persons. Eligible applicants include Federally-recognized tribes, which includes Alaska Native communities, and tribally authorized tribal organizations. Eligible categories of funding include housing rehabilitation, land acquisition to support new housing, homeownership assistance, public facilities and improvements, economic development, and microenterprise programs. For a complete description of eligible activities, please refer to 24 CFR part 1003, subpart C.

The ICDBG program regulations are at 24 CFR part 1003. The ICDBG program requires eligible applicants to submit information to enable HUD to select the best projects for funding during annual competitions. Additionally, the information submitted is essential for HUD in monitoring grants to ensure that grantees are complying with applicable statutes and regulations and implementing activities as approved.

ICDBG applicants must submit a complete application package which includes an Application for Federal Assistance (SF–424), Applicant/Recipient Disclosure/Update Report (HUD–2880), Cost Summary (HUD–4123), and Implementation Schedule (HUD–4125). If the applicant has a waiver of the electronic submission requirement and is submitting a paper application, an Acknowledgement of Application Receipt (HUD–2993) must also be submitted. If the applicant is a tribal organization, a resolution from the tribe stating that the tribal organization is submitting an application on behalf of the tribe must also be included in the application package.

ICDBG recipients are required to submit a quarterly Federal Financial Report (SF–425) that describes the use of grant funds drawn from the recipient's line of credit. The reports are used to monitor cash transfers to the recipients and obtain expenditure data from the recipients. (2 CFR 200.328)

The regulations at 24 CFR part 200 require that grantees and sub-grantees take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Consistent with these regulations, 24 CFR 1003.506(b) requires that ICDBG grantees report on these activities on an annual basis, with Contract and Subcontract Activity Report being due to HUD on October 10 of each year (HUD–2516).

The regulations at 24 CFR 1003.506(a) instruct recipients to submit to HUD an Annual Status and Evaluation Report (ASER) that describes the progress made in completing approved activities with a listing of work to be completed; a breakdown of funds expended; and when the project is completed, a program evaluation expressing the effectiveness of the project in meeting community development needs. The ASER is due by November 15 each year and at grant closeout.

The information collected will allow HUD to accurately audit the program.

Respondents: Federally recognized Native American Tribes, Alaska Native communities and corporations, and tribal organizations.

ESTIMATED NUMBER OF RESPONDENTS, RESPONSES, AND BURDEN HOURS PER ANNUM

Type of submission	Number of respondents	Frequency of submissions	Total responses	Estimate average time (hours)	Estimate annual burden (hours)	Hourly rate *	Total annual cost
Grant Application (Includes SF–424, HUD–2880, HUD–2993, HUD–4123, HUD–4125)	240	1	240	30	7,200	$19.23	$138,456
Federal Financial Report (SF–425)	75	4	300	0.5	150	19.23	2,885
Contract and Subcontract Activity Report (HUD–2516)	75	1	75	1	75	19.23	1,442
Annual Status and Evaluation Report (ASER)	75	1.25	94	4	375	19.23	7,211
Total	240		709		7,800		149,994

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

(5) ways to minimize the burden of the collection of information on those who are respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2021–14913 Filed 7–13–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7034–N–38]

30-Day Notice of Proposed Information Collection: Restrictions on Assistance to Noncitizens; OMB Control No.: 2577–0295

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* August 13, 2021.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/Start Printed Page 15501PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on May 3, 2021 at 86 FR 23421.

A. Overview of Information Collection

Title of Information Collection: Restrictions on Assistance to Noncitizens.

OMB Approval Number: 2577–0295.

Type of Request: Extension without change of a currently approved collection.

Form Number: HUD–9886, HUD–9886–ARA, HUD–9886–CAM, HUD–9886–CHI, HUD–9886–CRE, HUD–9886–FRE, HUD–9886–HMO, HUD–9886–KOR, HUD–9886–RUS, HUD–9886–SPA, HUD–9886–VIE.

Description of the need for the information and proposed use: HUD is prohibited from making financial assistance available to other than citizens or persons of eligible immigration status. This is a request for an extension of the current approval for HUD to require a declaration of citizenship or eligible immigration status from individuals seeking certain housing assistance.

Respondents (*i.e., affected public):* Individuals or households, State, or Local Government.

REPORTING BURDEN

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
New tenant admissions in Public & Indian Housing and Section 8 Programs**	4,055	213	863,715.00	0.16	138,194.40	$30.00	$4,145,832.00
Annual recertification of tenants' eligible immigration status in Public & Indian Housing and Section 8 Programs**	4,055	7	28,385.00	0.08	2,270.80	30.00	68,124.00
Totals	4,055		892,100		140,465.20		4,213,956.00

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

(5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35 as amended.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2021–14953 Filed 7–13–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7034–N–37]

30-Day Notice of Proposed Information Collection: Improving Customer Experience (OMB Circular A–11, Section 280) OMB Control Number: New Collection

AGENCY: Office of the Chief Information Officer, Housing and Urban Development (HUD).

ACTION: Notice.

SUMMARY: The U.S. Department of Housing and Urban Development has under OMB review the following proposed Information Collection Request ''Improving Customer Experience (OMB Circular A–11, Section 280 Implementation)'' for approval under the Paperwork Reduction Act (PRA). HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* August 13, 2021.

ADDRESSES: Submit comments identified by Information Collection 3090–XXXX, Improving Customer Experience (OMB Circular A–11, Section 280 Implementation), by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments to *https://www.regulations.gov,* will be posted to the docket unchanged.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 3090–XXXX, Improving Customer Experience (OMB Circular A–11, Section 280 Implementation).

Instructions: Please submit comments only and cite Information Collection 3090–XXXX, Improving Customer Experience (OMB Circular A–11, Section 280 Implementation) in all correspondence related to this collection. To confirm receipt of your comment(s), please check *regulations.gov,* approximately two-to-three business days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Amira Boland, Office of Management and Budget, 725 17th St NW, Washington, DC 20006, or via email to *amira.c.boland@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: *Abstract:* A modern, streamlined and responsive customer experience means: Raising government-wide customer experience to the average of the private sector service industry; developing indicators for high-impact Federal programs to monitor progress towards excellent customer experience and mature digital services; and providing the structure (including increasing transparency) and resources to ensure customer experience is a focal point for agency leadership.

This proposed information collection activity provides a means to garner customer and stakeholder feedback in an efficient, timely manner in accordance with the Administration's commitment to improving customer service delivery as discussed in Section 280 of OMB Circular A–11 at *https://www.performance.gov/cx/a11-280.pdf.*

As discussed in OMB guidance, agencies should identify their highest-impact customer journeys (using customer volume, annual program cost, and/or knowledge of customer priority as weighting factors) and select touchpoints/transactions within those journeys to collect feedback.

These results will be used to improve the delivery of Federal services and programs. It will also provide government-wide data on customer experience that can be displayed on *www.performance.gov* to help build transparency and accountability of Federal programs to the customers they serve.

As a general matter, these information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. U.S. Department of Housing and Urban Development will only submit collections if they meet the following criteria.

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are non-controversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered is intended to be used for general service improvement and program management purposes;
- Upon agreement between OMB and the agency all or a subset of information may be released as part of A–11, Section 280 requirements only on *performance.gov.* Summaries of customer research and user testing activities may be included in public-facing customer journey maps or summaries.
- Additional release of data must be done coordinated with OMB.

These collections will allow for ongoing, collaborative and actionable communications between the Agency, its customers and stakeholders, and OMB as it monitors agency compliance on Section 280. These responses will inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on services will be unavailable. This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on January 27, 2021 at 86 FR 7302.

A. Overview of Information Collection

Title of Information Collection: Information Collection; Improving Customer Experience (OMB Circular A–11, Section 280.

OMB Approval Number: Pending.

Type of Request: New.

Form Number: None.

Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Description of the need for the information and proposed use:

Under the PRA, (44 U.S.C. 3501–3520) Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of

information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, HUD is publishing notice of the proposed collection of information set forth in this document.

Whether seeking a loan, Social Security benefits, veterans' benefits, or other services provided by the Federal Government, individuals and businesses expect Government customer services to be efficient and intuitive, just like services from leading private-sector organizations. Yet the 2016 American Consumer Satisfaction Index and the 2017 Forrester Federal Customer Experience Index show that, on average, Government services lag nine percentage points behind the private sector.

A modern, streamlined and responsive customer experience means: Raising government-wide customer experience to the average of the private sector service industry; developing indicators for high-impact Federal programs to monitor progress towards excellent customer experience and mature digital services; and providing the structure (including increasing transparency) and resources to ensure customer experience is a focal point for agency leadership. To support this, OMB Circular A–11 Section 280 established government-wide standards for mature customer experience organizations in government and measurement. To enable Federal programs to deliver the experience taxpayers deserve, they must undertake three general categories of activities: conduct ongoing customer research, gather and share customer feedback, and test services and digital products.

These data collection efforts may be either qualitative or quantitative in nature or may consist of mixed methods. Additionally, data may be collected via a variety of means, including but not limited to electronic or social media, direct or indirect observation (*i.e.,* in person, video and audio collections), interviews, questionnaires, surveys, and focus groups. HUD will limit its inquiries to data collections that solicit strictly voluntary opinions or responses. Steps will be taken to ensure anonymity of respondents in each activity covered by this request.

The results of the data collected will be used to improve the delivery of Federal services and programs. It will include the creation of personas, customer journey maps, and reports and summaries of customer feedback data and user insights. It will also provide government-wide data on customer experience that can be displayed on *performance.gov* to help build transparency and accountability of Federal programs to the customers they serve.

Method of Collection:

HUD will collect this information by electronic means when possible, as well as by mail, fax, telephone, technical discussions, and in-person interviews. HUD may also utilize observational techniques to collect this information.

Below is a preliminary estimate of the aggregate burden hours for this new collection. The U.S. Department of Housing and Urban Development will provide refined estimates of burden in subsequent notices.

Average Expected Annual Number of Activities: Approximately five types of customer experience activities such as feedback surveys, focus groups, user testing, and interviews.

Average Number of Respondents per Activity: 1 response per respondent per activity.

Annual Responses: 500,000.

Average Minutes per Response: 2 minutes–60 minutes, dependent upon activity.

Burden Hours: The U.S. Department of Housing and Urban Development requests approximately 25,000 burden hours.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

All written comments will be available for public inspection *Regulations.gov*.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2021–14397 Filed 7–13–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2021–N014; FXES11130900000C2–201–FF09E32000]

Endangered and Threatened Wildlife and Plants; Initiation of 5-Year Status Reviews for 37 Southeastern Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of initiation of reviews; request for information.

SUMMARY: We, the U.S. Fish and Wildlife Service, are initiating 5-year status reviews for 37 species under the Endangered Species Act, as amended. A 5-year review is an assessment of the best scientific and commercial data available at the time of the review. We are requesting submission of any such information that has become available since the previous status review for each species.

DATES: To allow us adequate time to conduct these reviews, we must receive your comments or information on or before September 13, 2021. However, we will continue to accept new

information about any listed species at any time.

ADDRESSES: For instructions on how and where to request or submit information, see Request for New Information under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT:

General Information: Aaron Valenta, (404) 679–4144, via email at *aaron_valenta@fws.gov,* and via U.S. mail at U.S. Fish and Wildlife Service, 1875 Century Boulevard, Atlanta, GA 30345.

Species-Specific Information and Submission of Comments: Please refer to Request for New Information under **SUPPLEMENTARY INFORMATION.**

Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, are initiating 5-year status reviews under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), for 21 plant and 16 animal species. A 5-year status review is based on the best scientific and commercial data available at the time of the review; therefore, we are requesting submission of any such information that has become available since the last review for the species, particularly information on the status, threats, and recovery of the species that may have become available.

Why do we conduct 5-year reviews?

Under the ESA, we maintain Lists of Endangered and Threatened Wildlife and Plants (which we collectively refer to as the List) in title 50 of the Code of Federal Regulations at 50 CFR 17.11(h) (for wildlife) and 50 CFR 17.12(h) (for plants). Listed wildlife and plants can also be found at *http://ecos.fws.gov/tess_public/pub/listedAnimals.jsp* and *http://ecos.fws.gov/tess_public/pub/listedPlants.jsp,* respectively. Section 4(c)(2)(A) of the ESA requires us to review each listed species' status at least once every 5 years. Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing species under active review; however, we may review the status of any species at any time based upon a petition or other information available to us. For additional information about 5-year reviews, refer to our fact sheet at *http://www.fws.gov/endangered/what-we-do/recovery-overview.html.*

Which species are under review?

This notice announces our active 5-year status reviews of the species in the following table.

Common name/ scientific name	Contact person, email, phone	Status (endangered or threatened)	States where the species is known to occur	Final listing rule (**Federal Register** citation and publication date)	Contact's mailing address
ANIMALS					
Amphibians					
Guajón (*Eleutherodactylus cooki*).	Jan Zegarra, *caribbean_es@fws.gov*, 787–510–5206.	Threatened	Puerto Rico	62 FR 31757; 6/11/1997 ..	USFWS, Road 301, Km 5.1, P.O. Box 491, Boquerón, PR 00622.
Birds					
Parrot, Puerto Rican (*Amazona vittata*).	Marisel Lopez, *caribbean_es@fws.gov*, 787–240–8895.	Endangered	Puerto Rico	32 FR 4001; 3/11/1967	USFWS, Road 191, Km 4.3, P.O. Box 1600, Rio Grande, PR 00745.
Fishes					
Darter, *Kentucky arrow (Etheostoma spilotum).*	Michael Floyd, *kentuckyes@fws.gov*, 502–695–0468.	Threatened	Kentucky	81 FR 68963; 10/5/2016 ..	USFWS, 330 W. Broadway, Ste. 265, Frankfort, KY 40601.
Shiner, Cape Fear (*Notropis mekistocholas*).	Emily Wells, *Raleigh_ES@fws.gov*, 919–856–4520.	Endangered	North Carolina	52 FR 36034; 9/25/1987 ..	USFWS, P.O. Box 33726, Raleigh, NC 27636–3726.
Cavefish, Alabama (*Speoplatyrhinus poulsoni*).	Jennifer Grunewald, *alabama@fws.gov*, 251–441–5181.	Endangered	Alabama	53 FR 37968; 9/28/1988 ..	USFWS, 1208B Main Street, Daphne, AL 36526.
Mammals					
Deer, Key (*Odocoileus virginianus clavium*)	Lourdes Mena, *key_deer_5-year_review@fws.gov*, 904–731–3134.	Endangered	Florida	32 FR 4001; 3/11/1967	USFWS, 1339 20th St., Vero Beach, FL 32960.
Manatee, West Indian (*Trichechus manatus*).	Lourdes Mena, *manatee@fws.gov*, 904–731–3134.	Threatened	Alabama, Delaware, Florida, Georgia, Louisiana, Maryland, Mississippi, New Jersey, North Carolina, Puerto Rico, South Carolina, Texas, Virginia.	82 FR 16668; 4/5/2017	USFWS, 7915 Baymeadows Way, Suite 200, Jacksonville, FL 32256.
Clams					
Elktoe, Appalachian (*Alasmidonta raveneliana*).	Jason Mays, *fw4esasheville@fws.gov*, 828–258–3939.	Endangered	North Carolina, Tennessee ..	59 FR 60324; 11/23/1994	USFWS, 160 Zillicoa St., Asheville, NC 28801.
Pearlshell, Louisiana (*Margaritifera hembeli*).	Monica Sikes, *lafayette@fws.gov*, 337–291–3118.	Threatened	Arkansas, Louisiana	58 FR 49935; 9/24/1993 ..	USFWS, 200 Dulles Drive, Lafayette, LA 70506.
Moccasinshell, Suwannee (*Medionidus walkeri*).	Lourdes Mena, *panamacity@fws.gov*, 904–731–3134.	Threatened	Florida, Georgia	81 FR 69417; 10/6/2016 ..	USFWS, 1601 Balboa Ave., Panama City, FL 32405.

Common name/ scientific name	Contact person, email, phone	Status (endangered or threatened)	States where the species is known to occur	Final listing rule (**Federal Register** citation and publication date)	Contact's mailing address
Wartyback, white (pearlymussel) (*Plethobasus cicatricosus*).	Evan Collins, *alabama@fws.gov*, 251–441–5181.	Endangered	Alabama, Tennessee	41 FR 24062; 6/14/1976 ..	USFWS, 1208B Main Street, Daphne, AL 36526.
			Crustaceans		
Shrimp, Squirrel Chimney Cave (*Palaemonetes cummingi*).	Lourdes Mena, *northflorida@fws.gov*, 904–731–3134.	Threatened	Florida	55 FR 25588; 6/21/1990 ..	USFWS, 7915 Baymeadows Way, Suite 200, Jacksonville, FL 32256.
Shrimp, Alabama cave (*Palaemonias alabamae*).	Jennifer Grunewald, *alabama@fws.gov*, 251–441–5181.	Endangered	Alabama	53 FR 34696; 9/7/1988	USFWS, 1208B Main Street, Daphne, AL 36526.
Shrimp, Kentucky cave (*Palaemonias ganteri*).	Michael Floyd, *kentuckyes@fws.gov*, 502–695–0468.	Endangered	Kentucky	48 FR 46337; 10/12/1983	USFWS, 330 W Broadway, Ste. 265, Frankfort, KY 40601.
			Insects		
Beetle, Miami tiger (*Cicindelidia floridana*).	Lourdes Mena, *Miamitigerbeetle_5-yearreview@fws.gov*, 904–731–3134.	Endangered	Florida	81 FR 68985; 10/5/2016 ..	USFWS, 1339 20th St., Vero Beach, FL 32960.
			Snails		
Snail, painted snake coiled forest (*Anguispira picta*).	Geoff Call, *cookeville@fws.gov*, 931–528–6481.	Threatened	Tennessee	43 FR 28932; 7/3/1978	USFWS, 446 Neal Street, Cookeville, TN 38501.
			PLANTS		
			Flowering Plants		
Argythamnia blodgettii (Blodgett's silverbush)	Lourdes Mena, *pinerocklandplants_5-yearreview@fws.gov*, 904–731–3134.	Threatened	Florida	81 FR 66842; 9/29/2016 ..	USFWS, 1339 20th St., Vero Beach, FL 32960.
Auerodendron pauciflorum (no common name)	José G. Martínez, *caribbean_es@fws.gov*, 787–851–7297.	Endangered	Puerto Rico	59 FR 9935; 3/2/1994	USFWS, Road 301, Km 5.1, P.O. Box 491, Boquerón, PR 00622.
Cardamine micranthera (small-anthered bittercress)	Karla Quast, *fw4esasheville@fws.gov*, 828–258–3939.	Endangered	North Carolina, Virginia	54 FR 38947; 9/21/1989 ..	USFWS, 160 Zillicoa St., Asheville, NC 28801.
Chamaecrista lineata keyensis (Big Pine partridge pea)	Lourdes Mena, *pinerocklandplants_5-yearreview@fws.gov*, 904–731–3134.	Endangered	Florida	81 FR 66842; 9/29/2016 ..	USFWS, 1339 20th St., Vero Beach, FL 32960.
Chamaesyce deltoidea serpyllum (wedge spurge)	Lourdes Mena, *pinerocklandplants_5-yearreview@fws.gov*, 904–731–3134.	Endangered	Florida	81 FR 66842; 9/29/2016 ..	USFWS, 1339 20th St., Vero Beach, FL 32960.
Clematis socialis (Alabama leather flower)	Scott Wiggers, *mississippi_field_office@fws.gov*, 228–475–0765.	Endangered	Alabama, Georgia	51 FR 34420; 9/26/1986 ..	USFWS, 6578 Dogwood View Pkwy., Jackson, MS 39213.
Conradina glabra (Apalachicola rosemary)	Lourdes Mena, *panamacity@fws.gov*, 904–731–3134.	Endangered	Florida	58 FR 37432; 7/12/1993 ..	USFWS, 1601 Balboa Ave., Panama City, FL 32405.
Cordia bellonis (no common name)	Omar Monsegur, *caribbean_es@fws.gov*, 787–510–5206.	Endangered	Puerto Rico	62 FR 1644; 1/10/1997	USFWS, Road 301, Km 5.1, P.O. Box 491, Boquerón, PR 00622.
Crescentia portoricensis (higüero de sierra)	Omar Monsegur, *caribbean_es@fws.gov*, 787–510–5206.	Endangered	Puerto Rico	52 FR 46085; 12/4/1987 ..	USFWS, Road 301, Km 5.1, P.O. Box 491, Boquerón, PR 00622.
Geocarpon minimum (no common name)	Jason Phillips, *arkansas-es_recovery@fws.gov*, 870–503–1101.	Threatened	Arkansas, Louisiana, Missouri, Texas.	52 FR 22930; 6/16/1987 ..	USFWS, 110 South Amity Road, Suite 300, Conway, Arkansas 72032.
Harperocallis flava (Harper's beauty)	Lourdes Mena, *panamacity@fws.gov*, 904–731–3134.	Endangered	Florida	44 FR 56862; 10/2/1979 ..	USFWS, 1601 Balboa Ave., Panama City, FL 32405.
Houstonia (=Hedyotis) purpurea var. *montana* (Roan Mountain bluet)	Karla Quast, *fw4esasheville@fws.gov*, 828–258–3939.	Endangered	North Carolina, Tennessee, Virginia.	55 FR 12793; 4/5/1990	USFWS, 160 Zillicoa St., Asheville, NC 28801.
Linum arenicola (sand flax)	Lourdes Mena, *pinerocklandplants_5-yearreview@fws.gov*, 904–731–3134.	Endangered	Florida	81 FR 66842; 9/29/2016 ..	USFWS, 1339 20th St., Vero Beach, FL 32960.
Lupinus aridorum (scrub lupine)	Lourdes Mena, *northflorida@fws.gov*, 904–731–3134.	Endangered	Florida	52 FR 11172; 4/7/1987	USFWS, 7915 Baymeadows Way, Suite 200, Jacksonville, FL 32256.

Common name/ scientific name	Contact person, email, phone	Status (endangered or threatened)	States where the species is known to occur	Final listing rule (**Federal Register** citation and publication date)	Contact's mailing address
Myrcia paganii (no common name)	José G. Martínez, *caribbean_es@fws.gov*, 787–510–5206.	Endangered	Puerto Rico	59 FR 8138; 2/18/1994	USFWS, Road 301, Km 5.1, P.O. Box 491, Boquerón, PR 00622.
Trichilia triacantha (Bariaco)	Omar Monsegur, *caribbean_es@fws.gov*, 787–510–5206.	Endangered	Puerto Rico	53 FR 3565; 2/5/1988	USFWS, Road 301, Km 5.1, P.O. Box 491, Boquerón, PR 00622.
Warea amplexifolia (wide-leaf warea)	Lourdes Mena, *northflorida@fws.gov*, 904–731–3134.	Endangered	Florida	52 FR 15501; 4/29/1987 ..	USFWS, 7915 Baymeadows Way, Suite 200, Jacksonville, FL 32256.
			Non-Flowering Plants		
Elaphoglossum serpens (no common name)	Marielle Peschiera, *caribbean_es@fws.gov*, 787–510–5206.	Endangered	Puerto Rico	58 FR 32308; 6/9/1993	USFWS, Road 301, Km 5.1, P.O. Box 491, Boquerón, PR 00622.
Polystichum calderonense (no common name)	Marielle Peschiera, *caribbean_es@fws.gov*, 787–510–5206.	Endangered	Puerto Rico	58 FR 32308; 6/9/1993	USFWS, Road 301, Km 5.1, P.O. Box 491, Boquerón, PR 00622.
Tectaria estremerana (no common name)	Marielle Peschiera, *caribbean_es@fws.gov*, 787–510–5206.	Endangered	Puerto Rico	58 FR 32308; 6/9/1993	USFWS, Road 301, Km 5.1, P.O. Box 491, Boquerón, PR 00622.
Trichomanes punctatum ssp. *floridanum* (Florida bristle fern)	Lourdes Mena, *Floridabristlefern_5-yearreview@fws.gov*, 904–731–3134.	Endangered	Florida	80 FR 60439; 10/6/2015 ..	USFWS, 1339 20th St., Vero Beach, FL 32960.

What information do we consider in our 5-year reviews?

A 5-year review considers all new information available at the time of the review. In conducting the review, we consider the best scientific and commercial data that have become available since the most recent status review. Specifically, we are seeking new information regarding:

(1) Species biology, including but not limited to life history and habitat requirements and impact tolerance thresholds;

(2) Historical and current population conditions, including but not limited to population abundance, trends, distribution, demographics, and genetics;

(3) Historical and current habitat conditions, including but not limited to amount, distribution, and suitability;

(4) Historical and current threats, threat trends, and threat projections in relation to the five listing factors (as defined in section 4(a)(1) of the ESA);

(5) Conservation measures for the species that have been implemented or are planned; and

(6) Other new information, data, or corrections, including but not limited to taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

Any new information received will be considered during the 5-year review and may be useful in evaluating ongoing recovery programs for the species.

Request for New Information

To ensure that 5-year reviews are based on the best available scientific and commercial information, we request new information from all sources. Please use the contact information listed in the table above that is associated with the species for which you are submitting information. If you submit information, please support it with documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources.

How do I ask questions or provide information?

If you wish to provide information for any species listed above, please submit your comments and materials to the appropriate contact in the table above. Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your submission, you should be aware that your entire submission—including your personal identifying information—may be made publicly available at any time. Although you can request that personal information be withheld from public review, we cannot guarantee that we will be able to do so.

Authority

This document is published under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Leopoldo Miranda-Castro,

Regional Director, South Atlantic-Gulf and Mississippi Basin Regions.

[FR Doc. 2021–14952 Filed 7–13–21; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[DOI–2021–0001; PPWOVPADU0/ POPFR2021.XZ0000]

Privacy Act of 1974; System of Records

AGENCY: National Park Service, Interior.

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, the Department of the Interior (DOI) is issuing a public notice of its intent to modify the National Park Service (NPS) Privacy Act system of records, INTERIOR/NPS–1, Special Use Permits. DOI is updating this system of records notice (SORN) to update the authorities, system location, and categories of records; propose new and modified routine uses; and add new sections and make general updates to remaining sections to accurately reflect management of the system of records in accordance with the Office of Management and Budget (OMB) policy. This modified system will be included in DOI's inventory of record systems.

DATES: This modified system will be effective upon publication. New or

modified routine uses will be effective August 13, 2021. Submit comments on or before August 13, 2021.

ADDRESSES: You may send comments identified by docket number [DOI–2021–0001] by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for sending comments.
- *Email: DOI_Privacy@ios.doi.gov.* Include docket number [DOI–2021–0001] in the subject line of the message.
- *U.S. mail or hand-delivery:* Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW, Room 7112, Washington, DC 20240.

Instructions: All submissions received must include the agency name and docket number [DOI–2021–0001]. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Felix Uribe, Associate Privacy Officer, National Park Service, 12201 Sunrise Valley Drive, Reston, VA 20192, *nps_privacy@nps.gov* or (202) 354–6925.

SUPPLEMENTARY INFORMATION:

I. Background

The NPS maintains the ''Special Use Permits—Interior, NPS–1'' system of records. The purpose of the system is to provide park superintendents with information to approve or deny requests for activities on NPS managed park lands that provide a benefit to an individual, group or organization, rather than the public at large. The system also assists park staff to ensure that the permitted activity does not interfere with the enjoyment of the park by visitors and that the natural and cultural resources of the park are protected. DOI is publishing this revised notice to update the system location, categories of records; add sections for security classification, purpose and history of the system of records, and make general updates to the remaining sections to accurately reflect management of the system of records in accordance with OMB Circular A–108, *Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act.* DOI is revising the authority to replace former provisions in accordance with the new Title 54 of the U.S. Code, which includes only laws applicable to NPS. DOI is proposing to modify existing routine uses to provide clarity and transparency, and to facilitate sharing of information with agencies and organizations to promote the integrity of the records in the system or carry out a statutory responsibility of the DOI or Federal Government. Additionally, DOI is proposing to add two new routine uses to facilitate sharing with the Executive Office of the President to resolve issues upon request of the subject of the record and with other Federal agencies or entities to respond to a breach of personally identifiable information (PII).

Routine use A was slightly modified to further clarify disclosures to the Department of Justice (DOJ) or other Federal agencies when necessary in relation to litigation or judicial hearings. Routine use B was modified to clarify disclosures to a congressional office to respond to or resolve an individual's request made to that office. Proposed routine use C facilitates sharing of information with the Executive Office of the President to resolve issues concerning individuals' records. Routine use I was modified to include grantees to facilitate sharing of information when authorized and necessary to perform services on DOI's behalf. Modified routine use J and proposed routine use K allow DOI and NPS to share information with appropriate Federal agencies or entities when reasonably necessary to respond to a breach of PII and to prevent, minimize, or remedy the risk of harm to individuals or the Federal Government, or assist an agency in locating individuals affected by a breach in accordance with OMB Memorandum M–17–12, *Preparing for and Responding to a Breach of Personally Identifiable Information.* Routine use N was modified to clarify circumstances where information may be shared with the news media and the public.

II. Privacy Act

The Privacy Act of 1974, as amended, embodies fair information practice principles in a statutory framework governing the means by which Federal agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to records about individuals that are maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. The Privacy Act defines an individual as a United States citizen or lawful permanent resident. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DOI by complying with DOI Privacy Act regulations at 43 CFR part 2, subpart K, and following the procedures outlined in the Records Access, Contesting Record, and Notification Procedures sections of this notice.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the existence and character of each system of records that the agency maintains and the routine uses of each system. The INTERIOR/NPS–1, Special Use Permits, system of records notice is published in its entirety below. In accordance with 5 U.S.C. 552a(r), DOI has provided a report of this system of records to the Office of Management and Budget and to Congress.

III. Public Participation

You should be aware your entire comment including your personally identifiable information, such as your address, phone number, email address, or any other personal information in your comment, may be made publicly available at any time. While you may request to withhold your personally identifiable information from public review, we cannot guarantee we will be able to do so.

SYSTEM NAME AND NUMBER:

INTERIOR/NPS–1, Special Use Permits.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

This system is managed by the Special Park Uses Program, 1849 C Street NW, Mail Stop 2460, Washington, DC 20240. Records are located at the parks responsible for issuing special use permits. A current listing of park offices and contact information may be obtained by visiting the NPS website at *http://www.nps.gov* or by contacting the System Manager.

SYSTEM MANAGER(S):

Special Park Uses Program Manager, 1849 C Street NW, Mail Stop 2460, Washington, DC 20240.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 54, United States Code, National Park Service and Related Programs.

PURPOSE(S) OF THE SYSTEM:

The purpose of the system is to provide park superintendents with information to approve or deny requests for activities on NPS managed park lands that provide a benefit to an individual, group or organization, rather

than the public at large. The system also helps park staff ensure that the permitted activity does not interfere with the enjoyment of the park by visitors and that the natural and cultural resources of the park are protected.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system include NPS employees and contractors responsible for processing applications for special use permits, applicants of special use permits, and holders of special use permits. This system contains records concerning corporations and other business entities, which are not subject to the Privacy Act. However, records pertaining to individuals acting on behalf of corporations and other business entities may reflect personal information that may be maintained in this system of records.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains: (1) Applications for special use permits; (2) decisions, correspondence or records generated in support of the program; and (3) supporting documentation for permitted activities containing site plans, diagrams, story boards or scripts, crowd control and emergency medical plans and proposed site plan(s). These records may include name, organization, Social Security number, Tax Identification Number (TIN), date of birth, address, telephone number, fax number, email address, person's position title; information of proposed activity including park alpha code, permit number, date, location, number of participants and vehicles, type of use, equipment, support personnel for the activity, company, project name and type, fees, liability insurance information; payment information including amounts paid, credit card number, credit card expiration date, check number, money order number, bank or financial institution, account number, payment reference number and tracking ID number; information on special activities including number of minors, livestock, aircraft type, special effects, special effect technician's license and permit number, stunts, unusual or hazardous activities; information on driver's license including number, state, and expiration date; vehicle information including year, make, color, weight, plate number, and insurance information.

RECORD SOURCE CATEGORIES:

Records in the system are obtained from applicants of special use permits and holders of special use permits.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DOI as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including Offices of the U.S. Attorneys, or other Federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

(1) DOI or any component of DOI;

(2) Any other Federal agency appearing before the Office of Hearings and Appeals;

(3) Any DOI employee or former employee acting in his or her official capacity;

(4) Any DOI employee or former employee acting in his or her individual capacity when DOI or DOJ has agreed to represent that employee or pay for private representation of the employee; or

(5) The United States Government or any agency thereof, when DOJ determines that DOI is likely to be affected by the proceeding.

B. To a congressional office when requesting information on behalf of, and at the request of, the individual who is the subject of the record.

C. To the Executive Office of the President in response to an inquiry from that office made at the request of the subject of a record or a third party on that person's behalf, or for a purpose compatible with the reason for which the records are collected or maintained.

D. To any criminal, civil, or regulatory law enforcement authority (whether Federal, state, territorial, local, tribal or foreign) when a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature, and the disclosure is compatible with the purpose for which the records were compiled.

E. To an official of another Federal agency to provide information needed in the performance of official duties related to reconciling or reconstructing data files or to enable that agency to respond to an inquiry by the individual to whom the record pertains.

F. To Federal, state, territorial, local, tribal, or foreign agencies that have requested information relevant or necessary to the hiring, firing or retention of an employee or contractor, or the issuance of a security clearance, license, contract, grant or other benefit, when the disclosure is compatible with the purpose for which the records were compiled.

G. To representatives of the National Archives and Records Administration (NARA) to conduct records management inspections under the authority of 44 U.S.C. 2904 and 2906.

H. To state, territorial and local governments and tribal organizations to provide information needed in response to court order and/or discovery purposes related to litigation, when the disclosure is compatible with the purpose for which the records were compiled.

I. To an expert, consultant, grantee, or contractor (including employees of the contractor) of DOI that performs services requiring access to these records on DOI's behalf to carry out the purposes of the system.

J. To appropriate agencies, entities, and persons when:

(1) DOI suspects or has confirmed that there has been a breach of the system of records;

(2) DOI has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DOI (including its information systems, programs, and operations), the Federal Government, or national security; and

(3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DOI's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

K. To another Federal agency or Federal entity, when DOI determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in:

(1) responding to a suspected or confirmed breach; or

(2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

L. To the Office of Management and Budget (OMB) during the coordination and clearance process in connection with legislative affairs as mandated by OMB Circular A–19.

M. To the Department of the Treasury to recover debts owed to the United States.

N. To the news media and the public, with the approval of the Public Affairs Officer in consultation with counsel and

the Senior Agency Official for Privacy, where there exists a legitimate public interest in the disclosure of the information, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12). Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Paper records are contained in file folders stored within filing cabinets. Electronic records are maintained in computers, computer databases, email, and electronic media such as removable hard drives, magnetic disks, compact discs, and computer tapes.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records in the system are retrieved by permittee's name, permit number or date of activity.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records in this system are retained in accordance with the NPS Service Records Schedule Resource Management and Lands (Category 1). This schedule has been approved by NARA (Job No. N1–79–08–1). The disposition is temporary. Retention of records with short-term operational value and not considered essential for the ongoing management of land and cultural and natural resources are destroyed 15 years after closure. Paper records are disposed of by shredding or pulping, and records contained on electronic media are degaussed or erased in accordance with 384 Departmental Manual 1.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The records contained in this system are safeguarded in accordance with 43 CFR 2.226 and other applicable security rules and policies. Paper records are maintained in file cabinets located in secured DOI facilities under the control of authorized personnel.

Access to DOI networks and records in this system requires DOI credentials or a valid username, password and is limited to DOI personnel who have a need to know the information for the performance of their official duties. Computers and storage media are encrypted in accordance with DOI security policy. Computers containing files are password protected to restrict unauthorized access. The computer servers in which electronic records are stored are located in secured DOI facilities.

Computerized records systems follow the National Institute of Standards and Technology privacy and security standards as developed to comply with the Privacy Act of 1974, as amended, 5 U.S.C. 552a; Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*; Federal Information Security Modernization Act of 2014, 44 U.S.C. 3551 *et seq.*; and the Federal Information Processing Standards 199: Standards for Security Categorization of Federal Information and Information Systems. Security controls include user identification, passwords, database permissions, encryption, firewalls, audit logs, and network system security monitoring, and software controls.

Access to records in the system is limited to authorized personnel who have a need to access the records in the performance of their official duties, and each user's access is restricted to only the functions and data necessary to perform that person's job responsibilities. System administrators and authorized users are trained and required to follow established internal security protocols and must complete all security, privacy, and records management training and sign the DOI Rules of Behavior.

RECORD ACCESS PROCEDURES:

An individual requesting records on himself or herself should send a signed, written inquiry to the applicable System Manager identified above. The request must include the specific bureau or office that maintains the record to facilitate location of the applicable records. The request envelope and letter should both be clearly marked ''PRIVACY ACT REQUEST FOR ACCESS.'' A request for access must meet the requirements of 43 CFR 2.238.

CONTESTING RECORD PROCEDURES:

An individual requesting corrections or the removal of material from his or her records should send a signed, written request to the applicable System Manager as identified above. The request must include the specific bureau or office that maintains the record to facilitate location of the applicable records. A request for corrections or removal must meet the requirements of 43 CFR 2.246.

NOTIFICATION PROCEDURES:

An individual requesting notification of the existence of records on himself or herself should send a signed, written inquiry to the applicable System Manager as identified above. The request must include the specific bureau or office that maintains the record to facilitate location of the applicable records. The request envelope and letter should both be clearly marked ''PRIVACY ACT INQUIRY.'' A request for notification must meet the requirements of 43 CFR 2.235.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

79 FR 9272 (February 18, 2014).

Teri Barnett,

Departmental Privacy Officer, Department of the Interior.

[FR Doc. 2021–14985 Filed 7–13–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF JUSTICE

[CPCLO Order No. 006–2020]

Privacy Act of 1974; Systems of Records

AGENCY: Office of Legal Policy, United States Department of Justice.

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, as amended, and Office of Management and Budget (OMB) Circular No. A–108, notice is hereby given that the Office of Legal Policy (OLP), a component within the United States Department of Justice (DOJ or Department), proposes to modify its system of records notice titled ''General Files System of the Office of Legal Policy,'' JUSTICE/OLP–003. OLP proposes to modify this system of records notice as part of the Department's overall effort to update leadership system of records notices in light of organizational, procedural, and technological changes at the Department.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), the modifications to this system of records will be effective upon publication, subject to a 30-day period in which to comment on the modified routine uses, described below. Please submit any comments by August 13, 2021.

ADDRESSES: The public, OMB, and Congress are invited to submit any comments by mail to the United States Department of Justice, Office of Privacy

and Civil Liberties, ATTN: Privacy Analyst, Two Constitution Square (2Con), 145 N Street NE, Suite 8W.300, Washington, DC 20530; by facsimile at 202–307–0693; or by email at *privacy.compliance@usdoj.gov.* To ensure proper handling, please reference the above CPCLO Order No. on your correspondence.

FOR FURTHER INFORMATION CONTACT: Matrina Matthews, Executive Officer, Office of Legal Policy, U.S. Department of Justice, 950 Pennsylvania Avenue NW, Room 4234, Washington, DC 20530–0001; telephone: (202) 616–0040.

SUPPLEMENTARY INFORMATION: OLP is principally responsible for planning, developing, and coordinating the implementation of major policy initiatives of high priority to the Department and to the Administration. In addition, the Assistant Attorney General, OLP, consistent with 28 CFR 0.23, is responsible for: Examining and studying legislation and other policy proposals and coordinating Departmental efforts to secure enactment of those of special interest to the Department and the Administration; advising and assisting the Attorney General and the Deputy Attorney General regarding the selection and appointment of Federal judges; representing the Department on the Administrative Conference of the United States and, as appropriate, on regulatory reform matters; advising appropriate Departmental officials, from time to time, on investigation, litigation, negotiation, penal, or correctional policies to ensure the compatibility of those policies with overall Departmental goals; and performing such other duties and functions as may be specially assigned by the Attorney General and the Deputy Attorney General.

The Department established the system of records, ''General Files System of the Office of Legal Policy,'' JUSTICE/OLP–003, to assist the Assistant Attorney General, OLP, and the personnel within OLP in carrying out the responsibilities of the Office. Since JUSTICE/OLP–003 was last published in full, 50 FR 37299 (Sept. 12, 1985), OLP and the Department as a whole have undertaken a number of organizational, procedural, and technological changes that have modernized the information and information system that are used to collect, use, maintain, and disseminate these records.

Specifically, JUSTICE/OLP–003 is being updated as follows: The system location paragraph has been updated to account for the location of both hard copies and the Department's data centers; the authorities paragraph has been clarified to include statutes outlining the role and responsibilities of the Assistant Attorney General and OLP, as delegated by the Attorney General; the routine uses have been updated to include additional routine uses that appear in almost every DOJ system of records notice, which allow for disclosures that are functionally equivalent to the purpose for which the DOJ information is collected, or are necessary and proper uses of the DOJ information (for example, disclosures to NARA, disclosure to identify and mitigate actual or suspected breaches, and disclosures to the public or news media, when appropriate); the records-storage paragraph has been updated to include the electronic storage of records; the paragraph detailing the policies and practices for the retrieval of records in the system has been updated to account for the electronic storage of records; the records-retention paragraph has been updated to include the appropriate records control schedules; the access, amendment, and notification procedures have been clarified to detail the process for requesting access to, amendment of, or notification of, records within this system of records not otherwise exempt from such requests; and a history paragraph has been added. The Department has not amended the Privacy Act exemptions already claimed for this system of records, so that paragraph remains unchanged. The Department has published this system of records in its entirety for the benefit of the public.

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and Congress on this new system of records.

Dated: July 1, 2021.

Peter A. Winn,

Acting Chief Privacy and Civil Liberties Officer, United States Department of Justice.

JUSTICE/OLP–003

SYSTEM NAME AND NUMBER:

General Files System of the Office of Legal Policy, JUSTICE/OLP–003.

SECURITY CLASSIFICATION:

Classified and Controlled Unclassified Information.

SYSTEM LOCATION:

Hard-copy records will be maintained at OLP, Robert F. Kennedy Department of Justice Building, 950 Pennsylvania Avenue NW, Washington, DC 20530–0001.

Electronic records will be maintained at one or more of the Department's data centers, including, but not limited to, the Justice Data Center, Rockville, MD 20854, and/or at one or more of the Department's Core Enterprise Facilities (CEF), including, but not limited to, the Department's CEF East, Clarksburg, WV 26306, or CEF West, Pocatello, ID 83201. Records within this system of records may be transferred to a Department-authorized cloud service provider, in which records would be limited to locations within the continental United States. Access to these electronic records includes all locations at which OLP operates or at which OLP operations are supported, including the Robert F. Kennedy Department of Justice Building. Some or all system information may also be duplicated at other locations where the Department has granted direct access to support OLP operations, system backup, emergency preparedness, and/or continuity of operations.

To determine the location of particular OLP records, contact the system manager, whose contact information is listed in the ''SYSTEM MANAGER(S)'' paragraph, below.

SYSTEM MANAGER(S):

Assistant Attorney General, Office of Legal Policy, 950 Pennsylvania Avenue NW, Washington, DC 20530–0001; phone: 202–514–4601; general inquiries to the Department can be submitted online at: *https://www.justice.gov/contact-us.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These records are maintained pursuant to 28 U.S.C. ch. 31; 5 U.S.C. 301; and 28 CFR part 0, subpart D–2.

PURPOSE(S) OF THE SYSTEM:

This system is maintained for the purpose of assisting the Assistant Attorney General, OLP, in carrying out OLP's responsibilities. OLP is principally responsible for planning, developing, and coordinating the implementation of major policy initiatives of high priority to the Department and to the Administration. In addition, the Assistant Attorney General, OLP, consistent with 28 CFR 0.23: Examines and studies legislation and other policy proposals and coordinates Departmental efforts to secure enactment of those of special interest to the Department and the Administration; advises and assists the Attorney General and the Deputy Attorney General regarding the selection and appointment of Federal judges; represents the Department on the Administrative Conference of the United States and, as appropriate, on regulatory reform matters; advises appropriate Departmental officials, from

time to time, on investigation, litigation, negotiation, penal, or correctional policies to ensure the compatibility of those policies with overall Departmental goals; and performs such other duties and functions as may be specially assigned by the Attorney General and the Deputy Attorney General.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system may encompass individuals who are involved with official Federal investigations, policy decisions, and administrative matters of significance. Such individuals include, but are not limited to, subjects of litigation, targets of investigations, Members and staff members of Congress, government officials, and individuals of national prominence or notoriety. The system also encompasses individuals who were candidates for Federal judgeships but who were never nominated, individuals who were nominated for Federal judgeships but who were never confirmed, and individuals who were nominated and confirmed for Federal judgeships, excluding those appointed to the United States Court of Appeals for the Armed Forces, the United States Court of Appeals for Veterans Claims, the United States Tax Court, and the United States Court of Military Commission Review. The Assistant Attorney General, OLP, maintains records indexed to the name of the individual.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include case files, litigation materials, exhibits, internal memoranda and reports, or other records on a given subject or individual. Records vary in number and kind according to the breadth of the responsibilities assigned to the Assistant Attorney General, OLP. Records include those of such significance that the Assistant Attorney General, OLP, has policy or administrative interest, and may include those which pertain to investigative or law enforcement cases for which the Assistant Attorney General, OLP, is asked to provide an analysis and establish future policy direction. A computerized index containing the subject title and/or individual's name is also maintained.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system not otherwise exempt include individuals; organizations; State, local, and foreign government agencies as appropriate; the executive and legislative branches of the Federal Government; relevant third parties, and other Department and OLP systems of records, including but not limited to, JUSTICE/OLP–002, Judicial Nominations Files.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b), all or a portion of the records or information contained in this system of records may be disclosed as a routine use pursuant to 5 U.S.C. 552a(b)(3) under the circumstances or for the purposes described below, to the extent such disclosures are compatible with the purposes for which the information was collected:

(A) Where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate Federal, State, local, territorial, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.

(B) To complainants and/or victims to the extent necessary to provide such persons with information and explanations concerning the progress and/or results of the investigation or case arising from the matters of which they complained and/or of which they were a victim.

(C) To any person or entity that OLP has reason to believe possesses information regarding a matter within the jurisdiction of OLP, to the extent deemed to be necessary by OLP in order to elicit such information or cooperation from the recipient for use in the performance of an authorized activity.

(D) In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when the Department of Justice determines that the records are relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

(E) To an actual or potential party to litigation or the party's authorized representative for the purpose of negotiation or discussion of such matters as settlement, plea bargaining, or informal discovery proceedings.

(F) To the news media and the public, including disclosures pursuant to 28 CFR 50.2, unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

(G) To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, interagency agreements, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

(H) To a former employee of the Department for the purpose of: Responding to an official inquiry by a Federal, State, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

(I) To Federal, State, local, territorial, tribal, foreign, or international licensing agencies or associations that require information concerning the suitability or eligibility of an individual for a license or permit.

(J) To a Member of Congress, or staff acting upon the Member's behalf, when the Member or staff requests the information for investigative or policy decision-making purposes, or on behalf of, or at the request of, the individual who is the subject of the record.

(K) To the National Archives and Records Administration for purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

(L) To appropriate agencies, entities, and persons when: (1) The Department suspects or has confirmed that there has been a breach of the system of records; (2) the Department has determined that, as a result of the suspected or confirmed breach, there is a risk of harm to individuals, the Department (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(M) To another Federal agency or Federal entity, when the Department determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach; or (2) preventing, minimizing, or remedying

the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(N) To any agency, organization, or individual for the purpose of performing authorized audit or oversight operations of OLP and meeting related reporting requirements.

(O) To such recipients and under such circumstances and procedures as are mandated by Federal statute or treaty.

(P) To any criminal, civil, or regulatory law enforcement authority (whether Federal, State, local, territorial, tribal, foreign, or international) where the information is relevant to the recipient entity's law enforcement responsibilities.

(Q) To a governmental entity lawfully engaged in collecting law enforcement, law enforcement intelligence, or national security intelligence information for such purposes.

(R) To any person, organization, or governmental entity in order to notify them of a serious terrorist threat for the purpose of guarding against or responding to such threat.

(S) To any person or entity if deemed by OLP to be necessary in order to elicit information or cooperation from the recipient for use by OLP in the performance of an authorized law enforcement activity.

(T) To officials and employees of the White House, and during Presidential transitions, the President-elect and Vice President-elect and their designees, or any Federal agency which requires information relevant to an agency concerning the hiring, appointment, or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation, the classifying of a job, or the issuance of a grant or benefit.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system may be stored in electronic form, stored in paper folders, and/or stored on magnetic disks, hard disks, removable storage devices, or other electronic media. Electronic records are stored in databases and/or on hard disks, removable storage devices, or other electronic media. Records are stored securely in accordance with applicable executive orders, statutes, and agency implementing recommendations.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved manually by personal identifier (*e.g.,* name of the individual, registration number, employee identification number, etc.); subject title; or in some cases, by other identifying search terms.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with guidelines approved by the National Archives and Records Administration (DAA–006–2013–0005 (pending), DAA–0060–2012–0009, and DAA–006–2016–0006 (pending)).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Information in this system is maintained in accordance with applicable laws, rules, and policies on protecting individual privacy. The servers storing electronic data and the backup tapes stored onsite are located in locked rooms with access limited to authorized agency personnel. Backup tapes stored offsite are maintained in accordance with a government contract that requires adherence to applicable laws, rules, and policies on protecting individual privacy. Internet connections are protected by multiple firewalls. Security personnel conduct periodic vulnerability scans using DOJ-approved software to ensure security compliance, and security logs are enabled for all computers to assist in troubleshooting and forensics analysis during incident investigations. Users of individual computers can only gain access to the data with a valid user identification and password.

RECORD ACCESS PROCEDURES:

All requests for access to records must be in writing and should be addressed to the Chief, Initial Request Staff, Office of Information Policy, 1425 New York Avenue NW, Suite 11050, Washington, DC 20530–0001. Requests may also be made online at *https://www.justice.gov/oip/submit-and-track-request-or-appeal.* The envelope, letter, and/or subject line should be clearly marked ''Privacy Act Access Request.'' The request must describe the records sought in sufficient detail to enable Department personnel to locate them with a reasonable amount of effort in accordance with 28 CFR 16.41(d). The request must include a general description of the records sought and must include the requester's full name, current address, and, when necessary to identify records, date and place of birth. The request must be signed and either notarized or submitted under penalty of perjury. Some information may be exempt from the access provisions as described in the ''EXEMPTIONS PROMULGATED FOR THE SYSTEM'' paragraph, below. An individual who is the subject of a record in this system of records may request access to those records that are not exempt from access. A determination of whether a record may be accessed will be made at the time a request is received.

Although no specific form is required to submit a request, you may obtain forms for this purpose from the FOIA/Privacy Act Mail Referral Unit, United States Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530, or on the Department of Justice website at *https://www.justice.gov/oip/make-foia-request-doj.*

More information regarding the Department's procedures for accessing records in accordance with the Privacy Act can be found at 28 CFR part 16 Subpart D, ''Protection of Privacy and Access to Individual Records Under the Privacy Act of 1974.''

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest or amend records maintained in this system of records must direct their requests to the address indicated in the ''RECORD ACCESS PROCEDURES'' paragraph, above. All requests to contest or amend records must be in writing, and the envelope, letter, and/or subject line should be clearly marked ''Privacy Act Amendment Request.'' All requests must state clearly and concisely what record is being contested, the reason(s) for contesting it, and the proposed amendment to the record. Some information may be exempt from the amendment provisions as described in the ''EXEMPTIONS PROMULGATED FOR THE SYSTEM'' paragraph, below. An individual who is the subject of a record in this system of records may request to contest or amend those records that are not exempt. A determination of whether a record is exempt from the amendment provisions will be made after a request is received.

More information regarding the Department's procedures for amending or contesting records in accordance with the Privacy Act can be found at 28 CFR 16.46, ''Requests for Amendment or Correction of Records.''

NOTIFICATION PROCEDURES:

Individuals may request to be notified if a record in this system of records pertains to them by utilizing the same procedures identified in the ''RECORD ACCESS PROCEDURES'' paragraph, above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

The Attorney General has exempted this system from subsections (c)(3) and

(4); (d); (e)(1), (2), and (3), (e)(4)(G) and (H), and (e)(5); and (g) of the Privacy Act, pursuant to 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), and (k)(5). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register**.

HISTORY:

50 FR 37299 (Sept. 12, 1985): Last published in full;

66 FR 8425 (Jan. 31, 2001); Added one routine use;

72 FR 3410 (Jan. 25, 2007): Added one routine use; and

82 FR 24147 (May 25, 2017): Rescinded 72 FR 3410, and added two routine uses.

[FR Doc. 2021–14994 Filed 7–13–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

[CPCLO Order No. 002–2021]

Privacy Act of 1974; Systems of Records

AGENCY: United States Department of Justice.

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a, and Office of Management and Budget (OMB) Circular No. A–108, notice is hereby given that the Department of Justice (Department or DOJ), proposes to modify an existing DOJ system of records previously titled, ''Department of Justice Computer Systems Activity and Access Records,'' JUSTICE/DOJ–002. The Department proposes to modify JUSTICE/DOJ–002 to reflect changes in technology, including the increased ability of the Department to link individuals to information technology, information system, or network activity, and to better describe the Department's records linking individuals to reported cybersecurity incidents or their access to certain DOJ information technologies, information systems, and networks through the internet or other authorized connections.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this notice is effective upon publication, subject to a 30-day period in which to comment on the routine uses, described below. Please submit any comments by August 13, 2021.

ADDRESSES: The public, Office of Management and Budget (OMB), and Congress are invited to submit any comments by mail to the Department of Justice, ATTN: Privacy Analyst, Office of Privacy and Civil Liberties, 145 N St. NE, Suite 8W.300, Washington, DC 20530, by facsimile at 202–307–0693, or by email to *privacy.compliance@usdoj.gov.*

FOR FURTHER INFORMATION CONTACT: Nickolous Ward, DOJ Chief Information Security Officer, (202) 514–3101, 145 N Street NE, Washington, DC 20530.

SUPPLEMENTARY INFORMATION: In accordance with the Federal Information Security Modernization Act of 2014, among other authorities, DOJ is responsible for complying with information security policies and procedures requiring information security protections commensurate with the risk and magnitude of harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of DOJ information and information systems. *See, e.g.,* 44 U.S.C. 3554 (2018). Consistent with these requirements, DOJ must ensure that it maintains accurate audit and activity records of the observable occurrences on its information systems and networks (also referred to as ''events'') that are significant and relevant to the security of DOJ information and information systems. These audit and activity records may include, but are not limited to, information that establishes what type of event occurred, when the event occurred, where the event occurred, the source of the event, the outcome of the event, and the identity of any individuals or subjects associated with the event.

Additionally, monitored events—whether detected utilizing information systems maintaining audit and activity records, reported to the Department by information system users, or reported to the Department by the cybersecurity research community and members of the general public conducting good faith vulnerability discovery activities—may constitute occurrences that (1) actually or imminently jeopardize, without lawful authority, the integrity, confidentiality, or availability of information or an information system; or (2) constitute a violation or imminent threat of violation of law, security policies, security procedures, or acceptable use policies. The Department has developed a formal process to track and document these reported ''incidents,'' which may, in limited circumstances, include records of individuals reporting, or otherwise associated with, an actual or suspected event or incident.

The system of records previously titled JUSTICE/DOJ–002, ''Computer Systems Activity and Access Records,'' covers the Department's tracking of all DOJ information technology, information system, and/or network activity, including any access, whether authorized or unauthorized, by users to any DOJ information technology, DOJ information systems, and/or DOJ networks. These records assist Department information security professionals in protecting DOJ data, ensuring the secure operation of DOJ information systems, and tracking and documenting incidents reported to the Department. JUSTICE/DOJ–002 was first published at 64 FR 73,585, on December 30, 1999, and later modified at 66 FR 8,425, on January 31, 2001, and 82 FR 24,147, on May 25, 2017. The revisions to this notice reflect advances in technology, such as the ability of authorized users to connect to Department information systems through the internet or other authorized network connections, as well as the increased ability of the Department to link the identity of individuals or subjects associated with an actual or suspected event or incident for security and administrative purposes.

The Department proposes to modify JUSTICE/DOJ–002 by: Revising the title of the system of records to, ''Department of Justice Information Technology, Information System, and Network Activity and Access Records;'' modifying and clarifying the location of the system's records; clarifying the individuals covered by the system to include any and all individuals who access Department information systems for any reason and from any location; clarifying the way in which the records maintained in this system of records are retrieved; expanding the routine uses of records for disclosures that are functionally equivalent to the purpose for which the DOJ information is collected, or that are necessary and proper uses of the DOJ information, to enhance the flexibility of JUSTICE/DOJ–002; and to notify the public that the Department intends to claim certain Privacy Act exemptions, promulgated elsewhere in the **Federal Register**. DOJ is republishing the entire system of records notice for ease of reference to these changes.

In accordance with Privacy Act requirements of 5 U.S.C. 552a(r), the Department has provided a report to OMB and to Congress on this revised system of records.

Dated: July 1, 2021.

Peter A. Winn,

Acting Chief Privacy and Civil Liberties Officer, United States Department of Justice.

JUSTICE/DOJ–002

SYSTEM NAME AND NUMBER:

Department of Justice Information Technology, Information System, and Network Activity and Access Records, JUSTICE/DOJ–002.

SECURITY CLASSIFICATION:

Unclassified, Controlled Unclassified Information, and Classified records.

SYSTEM LOCATION:

Records will be maintained electronically at Department of Justice offices, other sites utilized by the Department of Justice, and in information technology, information systems, or networks owned, operated by, or operated on behalf of the Department of Justice. Most records will be maintained electronically at one or more of the Department's Core Enterprise Facilities (CEF), including, but not limited to: CEF East, Clarksburg, WV 26306; CEF West, Pocatello, ID 83201; or CEF–DC, Sterling, VA 20164. Records may also be maintained at the individual information technology or end point of activity within the DOJ network, and may be located locally on the physical information technology or end point before being consolidated and stored for analysis and investigation.

Records within this system of records may be transferred to a Department-authorized cloud service provider, where records would be limited to locations within the Continental United States. Access to these electronic records includes all locations at which DOJ System Managers operate or are supported, including but not limited to the Robert F. Kennedy Department of Justice Building, 950 Pennsylvania Avenue NW, Washington, DC 20530. Some or all system information may also be duplicated at other locations where the Department has granted direct access to support DOJ System Manager operations, system backup, emergency preparedness, and/or continuity of operations. To determine the location of particular records maintained in this system of records, contact the system manager using the contact information listed in the ''SYSTEM MANAGER(S)'' paragraph, below.

SYSTEM MANAGER(S):

DOJ Chief Information Security Officer, (202) 514–3101, 145 N Street NE, Washington, DC 20530.

The Department has delegated to component-level Chief Information Officers and Chief Information Security Officers, subject to the oversight of the DOJ Chief Information Officer and/or DOJ Chief Information Security Officer, certain responsibilities for maintaining DOJ information technology, information system, and network activity and access records. Processes and procedures detailed in this system of records notice may be implemented by component-level Chief Information Officers and/or Chief Information Security Officers, at the direction of the DOJ Chief Information Officer and/or DOJ Chief Information Security Officer. Correspondence and/or requests from individuals may be referred to the appropriately delegated component-level Chief Information Officer and/or Chief Information Security Officer.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Federal Information Security Modernization Act of 2014, 44 U.S.C. 3551 *et seq.;* Executive Order No. 13587, Structural Reforms to Improve the Security of Classified Networks and the Responsible Sharing and Safeguarding of Classified Information (2011); Executive Order No. 13800, Strengthening the Cybersecurity of Federal Networks and Critical Infrastructure (2017); OMB Circular A–130, Managing Information as a Strategic Resource (2016); OMB Memorandum M–17–12, Preparing for and Responding to a Breach of Personally Identifiable Information (Jan. 3, 2017); OMB Memorandum M–20–32, Improving Vulnerability Identification, Management, and Remediation (Sept. 2, 2020).

PURPOSE(S) OF THE SYSTEM:

The purpose of this system of records is to ensure that the Department can track information system access and implement information security protections commensurate with the risk and magnitude of harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of DOJ information and information systems. Records in this system of records are used by system administrators and security personnel, or persons authorized to assist these personnel, for the purpose of: Reviewing and analyzing DOJ information and DOJ information system activity and access events for indications of inappropriate, unusual, or abnormal activity; tracking, documenting, and handling cybersecurity events and incidents; drafting, reviewing, and revising DOJ audit and accountability policies; supporting audit reviews, analyses, reporting requirements, and after-the-fact investigations of events; planning and managing system services; and otherwise performing their official duties. Authorized DOJ personnel may use the records in this system for the purpose of investigating improper access or other improper activity related to information system access; initiating disciplinary or other such action; or, where the record(s) may appear to indicate a violation or potential violation of the law, referring such record(s) to the appropriate investigative arm of DOJ, or other law enforcement agency for investigation.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals covered by this system encompass all individuals who are provided DOJ information technology, access DOJ information systems, or transmit information across the DOJ network. This includes: Individuals who use authorized DOJ information technology, information systems, and/or networks to send or receive DOJ information or DOJ-related communications, access internet sites, or access any DOJ information technologies, information systems, or DOJ information; individuals from outside DOJ who communicate electronically with DOJ users, DOJ information technologies, DOJ information systems, and/or DOJ networks; individuals reporting, tracking, documenting and/or otherwise associated with cybersecurity incident and/or event activities; and any individuals who attempt to access DOJ information technologies, DOJ information systems, and/or DOJ networks, with or without authorization.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system of records may include:

A. Access and activity logs that establish the types of events that occurred on an information system; when the events occurred; where the events occurred; the source of the events; the outcome of the events; and the identity of any individuals or subjects associated with the events. Such information includes, but is not limited to: Time stamps recording the data and time of access or activity; source and destination addresses; user, device, and process identifiers, including internet Protocol (IP) address, Media Access Control (MAC) address, and event descriptions; success/fail indications; filenames involved; full text recording of privileged commands; and/or access control or flow control rules

invoked. Such information may be collected and aggregated by the operating system or application software locally within an information technology, information system, or network.

B. Information relating to any individuals accessing DOJ information, DOJ information technologies, DOJ information systems, or DOJ networks, including but not limited to: Records contained within JUSTICE/DOJ–020 DOJ Identity, Credential, and Access Service Records System, 84 FR 60110 (Nov. 7, 2019); user names; persistent identifiers (such as a User ID); contact information, such as title, office, component, and agency; and the authorization of an individual's access to systems, files, or applications, such as signed consent forms or Rules of Behavior forms, or access authentication information (including but not limited to passwords, challenge questions/answers used to confirm/validate a user's identity, and other authentication factors).

C. Records on the use of electronic mail, instant messaging, other chat services, electronic call detail information (including name, originating/receiving numbers, duration, and date/time of call), and electronic voicemail.

D. Records of internet access from any information technology connected to a DOJ information system, on a DOJ network, or through authorized connections to DOJ networks and DOJ information systems, including the IP address of the information technology being used to initiate the internet connection and the information accessed.

E. Audit reviews, analyses, and reporting, including but not limited to, audits that result from monitoring of account usage, remote access, wireless connectivity, mobile device connection, configuration settings, system component inventory, physical access, and communications at the information system boundaries.

F. Actual or suspected incident or event report information, including but not limited to: Information related to individuals reporting, tracking, documenting and/or otherwise associated with a cybersecurity incident and/or event; information related to reporting, tracking, investigating, and/or addressing an incident or event (*e.g.,* data/time of the incident or event; location of incident or event; type of incident or event; storage medium information; safeguard information; external/internal entity report tracking; data elements associated with the incident or event; information on individuals impacted; information on information system(s) impacted; remediation, response, or notification actions; lessons learned; risk of harm and compliance assessments); and information related to discovering, testing, reporting, tracking, investigating, and/or addressing a security vulnerability or indicator of a security vulnerability.

RECORD SOURCE CATEGORIES:

Records covered by this system of records are generated internally (*i.e.,* information technology, information system, and/or network activity logs) regardless of the location from which an individual accesses DOJ information or DOJ information systems, manually sourced from DOJ personnel, or sourced directly from the individual on whom the record pertains.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system of records may be disclosed outside the Department as a routine use pursuant to 5 U.S.C. 552a(b)(3) under the circumstances or for the purposes described below, to the extent such disclosures are compatible with the purposes for which the information was collected:

A. To an organization or individual in both the public or private sector where there is reason to believe the recipient is or could become the target of a particular criminal activity or conspiracy or other threat, to the extent the information is relevant to the protection of life, health, or property. Information may be similarly disclosed to other recipients who share the same interests as the target or who may be able to assist in protecting against or responding to the activity or conspiracy.

B. To appropriate officials and employees of a federal agency for which the Department is authorized to provide a service, when disclosed in accordance with an interagency agreement and when necessary to accomplish an agency function articulated in the interagency agreement.

C. To any person(s) or appropriate Federal, state, local, territorial, tribal, or foreign law enforcement authority authorized to assist in an approved investigation of or relating to the improper usage of DOJ information technologies, DOJ information systems, and/or DOJ networks.

D. To any criminal, civil, or regulatory law enforcement authority (whether Federal, state, local, territorial, tribal, or foreign) where the information is relevant to the recipient entity's law enforcement responsibilities.

E. To a governmental entity lawfully engaged in collecting law enforcement, law enforcement intelligence, or national security intelligence information for such purposes.

F. To any person, organization, or governmental entity in order to notify them of a serious terrorist threat for the purpose of guarding against or responding to such a threat.

G. To Federal, state, local, territorial, tribal, foreign, or international licensing agencies or associations which require information concerning the suitability or eligibility of an individual for a license or permit.

H. Where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate Federal, state, local, territorial, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.

I. To complainants and/or victims to the extent necessary to provide such persons with information and explanations concerning the progress and/or results of the investigation or case arising from the matters of which they complained and/or of which they were a victim.

J. To any person or entity that the Department has reason to believe possesses information regarding a matter within the jurisdiction of the Department, to the extent deemed to be necessary by the Department in order to elicit such information or cooperation from the recipient for use in the performance of an authorized activity.

K. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when the Department of Justice determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

L. To an actual or potential party to litigation or the party's authorized representative for the purpose of negotiation or discussion of such matters as settlement, plea bargaining, or in informal discovery proceedings.

M. To the news media and the public, including disclosures pursuant to 28

CFR 50.2, unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

N. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, interagency agreement, or other assignment for the Federal government, when necessary to accomplish an agency function related to this system of records.

O. To designated officers and employees of state, local, territorial, or tribal law enforcement or detention agencies in connection with the hiring or continued employment of an employee or contractor, where the employee or contractor would occupy or occupies a position of public trust as a law enforcement officer or detention officer having direct contact with the public or with prisoners or detainees, to the extent that the information is relevant and necessary to the recipient agency's decision.

P. To appropriate officials and employees of a federal agency or entity that requires information relevant to a decision concerning the hiring, appointment, or retention of an employee; the issuance, renewal, suspension, or revocation of a security clearance; the execution of a security or suitability investigation; the letting of a contract; or the issuance of a grant or benefit.

Q. To a former employee of the Department for purposes of: Responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

R. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

S. To the National Archives and Records Administration for purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

T. To appropriate agencies, entities, and persons when: (1) The Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

U. To another Federal agency or entity, when the Department determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

V. To any agency, organization, or individual for the purpose of performing authorized audit or oversight operations of DOJ, and meeting related reporting requirements.

W. To such recipients and under such circumstances and procedures as are mandated by federal statute or treaty.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system of records are stored on paper and/or in electronic form. Records are stored securely in accordance with applicable Executive Orders, statutes, and agency implementing recommendations.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are collected in real time from all DOJ information technologies and endpoints on the DOJ network and aggregated in databases searchable by identifying characteristics, including, but not limited to, name, user ID, email address, or IP address. Records may be retrieved as part of routine network and information system security monitoring, cybersecurity incident response, database activity monitoring, or in support of other administrative or security investigations in accordance with appropriate laws, rules, and policies.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records of verification, authorization, access, and other activities generated by DOJ information technologies, DOJ information systems, and/or DOJ networks shall be retained in accordance with applicable records schedules, including but not limited to General Records Schedule 3.1 and 3.2. After the appropriate retention period, records will be destroyed/deleted, in accordance with appropriate media sanitization procedures.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Information in this system is safeguarded in accordance with appropriate laws, rules, and policies, including the Department's automated systems security and access policies. Access to such information is limited to Department personnel, contractors, and other personnel who have an official need for access in order to perform their duties. Records are maintained in an access-controlled area, with direct access permitted to only authorized personnel. Electronic records are accessed only by authorized personnel with accounts on the Department's network. Additionally, direct access to certain information may be restricted depending on a user's role and responsibility within the organization and system. Paper records are safeguarded in accordance with appropriate laws, rules, and policies.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system of records must be submitted in writing and comply with 28 CFR part 16, and should be sent by mail to the Justice Management Division, ATTN: FOIA Contact, Room 1111, Robert F. Kennedy Department of Justice Building, 950 Pennsylvania Avenue NW, Washington, DC 20530–0001, or by email at *JMDFOIA@usdoj.gov*. The envelope and letter should be clearly marked ''Privacy Act Access Request.'' The request should include a general description of the records sought, and must include the requester's full name, current address, and date and place of birth. The request must be signed and dated and either notarized or submitted under penalty of perjury. While no specific form is required, requesters may obtain a form (Form DOJ–361) for use in certification of identity from the FOIA/Privacy Act Mail Referral Unit, Justice Management Division, United States Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530–0001, or from the Department's website at *http://*

www.justice.gov/oip/forms/cert_ind.pdf. Some information may be exempt from the access provisions as described in the ''EXEMPTIONS PROMULGATED FOR THE SYSTEM'' paragraph, below. An individual who is the subject of a record in this system may access any stored records that are not exempt from the access provisions. A determination whether a record may be accessed will be made at the time a request is received.

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest or amend information maintained in the system should direct their requests to the address indicated in the ''RECORD ACCESS PROCEDURES'' section, above. The envelope and letter should be clearly marked ''Privacy Act Amendment Request.'' The request must comply with 28 CFR 16.46, and state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. Some information may be exempt from the amendment provisions as described in the ''EXEMPTIONS PROMULGATED FOR THE SYSTEM'' paragraph, below. An individual who is the subject of a record in this system may seek amendment of those records that are not exempt. A determination whether a record may be amended will be made at the time a request is received.

NOTIFICATION PROCEDURES:

Individuals may be notified if a record in this system of records pertains to them when the individuals request information utilizing the same procedures as those identified in the ''RECORD ACCESS PROCEDURES'' paragraph, above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

The Attorney General will promulgate regulations exempting this system of records from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(k)(1) and (k)(2). These exemptions apply only to the extent that information in the system of records is subject to exemption, pursuant to 5 U.S.C. 552a(k)(1) and (k)(2). The Department is in the process of promulgating regulations in accordance with the requirements of 5 U.S.C. 553(b), (c), and (e), that will be published in the **Federal Register**.

HISTORY:

64 FR 73,585 (Dec. 30, 1999): First published in full.

66 FR 8425 (Jan. 31, 2001): Modified to add a new routine use.

72 FR 3410 (Jan. 25, 2007): Modified to add a new routine use.

82 FR 24147 (May 25, 2017): Rescinded 72 FR 3410 (Jan. 25, 2007), and modified to add new routine uses.

[FR Doc. 2021–14986 Filed 7–13–21; 8:45 am]

BILLING CODE 4410–NW–P

DEPARTMENT OF JUSTICE

[CPCLO Order No. 004–2020]

Privacy Act of 1974; Systems of Records

AGENCY: Office of Legal Policy, United States Department of Justice.

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, as amended, and Office of Management and Budget (OMB) Circular No. A–108, notice is hereby given that the Office of Legal Policy (OLP), a component within the United States Department of Justice (DOJ or Department), proposes to modify its System of Records Notice currently titled ''United States Judges Records System,'' JUSTICE/OLP–002. OLP proposes to modify this system of records notice as part of the Department's overall effort to update DOJ leadership system of records notices in light of organizational, procedural, and technological changes at the Department.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), the modifications to this system of records will be effective upon publication, subject to a 30-day period in which to comment on the modified routine uses, described below. Please submit any comments by August 13, 2021.

ADDRESSES: The public, OMB, and Congress are invited to submit any comments by mail to the United States Department of Justice, Office of Privacy and Civil Liberties, ATTN: Privacy Analyst, Two Constitution Square (2Con), 145 N Street NE, Suite 8W.300, Washington, DC 20530; by facsimile at 202–307–0693; or by email at *privacy.compliance@usdoj.gov.* To ensure proper handling, please reference the above CPCLO Order No. on your correspondence.

FOR FURTHER INFORMATION CONTACT: Matrina Matthews, Executive Officer, Office of Legal Policy, U.S. Department of Justice, 950 Pennsylvania Avenue NW, Room 4234, Washington, DC 20530–0001; telephone: (202) 616–0040.

SUPPLEMENTARY INFORMATION: The Assistant Attorney General, OLP, is responsible for assisting the Attorney General in, *inter alia,* advising and assisting in the selection and appointment of Federal judges. OLP is comprised of attorneys and other DOJ personnel responsible for assisting the Assistant Attorney General, OLP, in executing the responsibilities of the office. The Department established the system of records, ''United States Judges Records System,'' JUSTICE/OLP–002, to maintain records needed to assist the Assistant Attorney General, OLP, and the personnel within OLP, in assessing candidates for potential nomination to be a Federal judge and securing a judicial nominee's confirmation and appointment. Since JUSTICE/OLP–002 was last published in full, 50 FR 30309 (July 25, 1985), OLP, and the Department as a whole, have undertaken a number of organizational, procedural, and technological changes that have modernized the information and information system that are used to collect, use, maintain, and disseminate these records. The Department has determined that updates to this system of records notice are necessary to describe the Department's organizational, procedural, and technological changes.

Specifically, JUSTICE/OLP–002 is being updated as follows: The system of records is being renamed the ''Judicial Nominations Files''; the system location paragraph has been updated to account for the location of both hard copies and the Department's data centers; the authorities paragraph has been clarified to include statutes outlining the role and responsibilities of the Attorney General, as delegated to the Assistant Attorney General and OLP; the categories-of-individuals paragraph has been updated to include individuals who were candidates for, nominated for, or nominated and confirmed for, Federal judgeships, excluding those appointed to the United States Court of Appeals for the Armed Forces, the United States Court of Appeals for Veterans Claims, the United States Tax Court, and the United States Court of Military Commission Review; the categories-of-individuals paragraph has also been updated to include individuals who were candidates for, nominated for, and/or confirmed to a position on the U.S. Sentencing Commission or related Executive Branch positions; the categories-of-records paragraph has been clarified to better articulate information that could be maintained in an individual's file; the routine uses have been updated: (1) To add or update routine uses that appear in almost every DOJ system of records notice that allow for disclosures

that are functionally equivalent to the purpose for which the DOJ information is collected, or are necessary and proper uses of the DOJ information (for example, disclosures to NARA, and disclosures to identify and mitigate actual or suspected breaches); and (2) to revise the White House disclosure routine use to clearly indicate the purposes for which records would be disclosed to the White House and its staff; the records-storage paragraph has been updated to include the electronic storage of records; the paragraph on policies and practices for the retrieval of records in the system has been updated to account for the electronic storage of records; the records-retention paragraph has been updated to include the appropriate records control schedules; the access, amendment, and notification procedures have been clarified to detail the process for requesting access to, amendment of, or notification of, records within this system of records not otherwise exempt from such requests; the exemptions paragraph has been modified to claim certain Privacy Act exemptions for this system, consistent with the Notice of Proposed Rulemaking published elsewhere in the **Federal Register**, that will modify the exemptions claimed for this system of records; and a history paragraph has been added. The Department has republished the system of records notice in its entirety for the convenience of the public.

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and Congress on this new system of records.

Dated: July 1, 2021.

Peter A. Winn,

Acting Chief Privacy and Civil Liberties Officer, United States Department of Justice.

JUSTICE/OLP–002

SYSTEM NAME AND NUMBER:

Judicial Nominations Files, JUSTICE/OLP–002.

SECURITY CLASSIFICATION:

Classified and Controlled Unclassified Information.

SYSTEM LOCATION:

Hard-copy records will be maintained at OLP, Robert F. Kennedy Department of Justice Building, 950 Pennsylvania Avenue NW, Washington, DC 20530–0001.

Electronic records will be maintained at one or more of the Department's data centers, including, but not limited to, the Justice Data Center, Rockville, MD 20854, and/or at one or more of the Department's Core Enterprise Facilities (CEF), including, but not limited to, the Department's CEF East, Clarksburg, WV 26306, or CEF West, Pocatello, ID 83201. Records within this system of records may be transferred to a Department-authorized cloud service provider, in which records would be limited to locations within the continental United States. Access to these electronic records includes all locations at which OLP operates or at which OLP operations are supported, including the Robert F. Kennedy Department of Justice Building. Some or all system information may also be duplicated at other locations where the Department has granted direct access to support OLP operations, system backup, emergency preparedness, and/or continuity of operations.

To determine the location of particular OLP records, contact the system manager, whose contact information is listed in the ''SYSTEM MANAGER(S)'' paragraph, below.

SYSTEM MANAGER(S):

Assistant Attorney General, Office of Legal Policy, 950 Pennsylvania Avenue NW, Washington, DC 20530–0001; phone: 202–514–4601; general inquiries to the Department can be submitted online at: *https://www.justice.gov/contact-us.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These records are maintained pursuant to the United States Constitution, Art. II, Sec. 2, Clause 2; 28 U.S.C. ch. 31; 28 U.S.C. 44; 5 U.S.C. 301; and 28 CFR part 0, subpart D–2.

PURPOSE(S) OF THE SYSTEM:

This system is maintained for the purpose of assisting the Assistant Attorney General, OLP, in carrying out OLP's responsibilities including, but not limited to: Advising and assisting the Attorney General in the selection and appointment of Federal judges; assessing candidates for potential nomination to a Federal judgeship; securing a judicial nominee's confirmation and appointment to a Federal judgeship; and providing advice and assistance in the selection and appointment of candidates to positions on the U.S. Sentencing Commission or an Executive Branch position.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system may encompass records on: Individuals who were candidates for Federal judgeships but who were never nominated; individuals who were nominated for Federal judgeships but who were never confirmed; individuals who were nominated and confirmed for Federal judgeships, excluding those appointed to the United States Court of Appeals for the Armed Forces, the United States Court of Appeals for Veterans Claims, and the United States Court of Military Commission Review; and individuals who were considered for, nominated for, and/or confirmed to a position on the U.S. Sentencing Commission or an Executive Branch position.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records consists of records pertaining to: (1) Files of individuals who were candidates for Federal judgeships but who were never nominated, which may include: Scheduling documents, Congressional actions and requests (for example, Senate Questionnaires), FBI background files and related paperwork, Financial Disclosure Reports, nomination forms and the Attorney General cover letters that accompany them, resumes, documents reflecting notes or assessments of candidates, and any other related documents necessary and relevant to assessing the potential nomination of a candidate for a Federal judgeship; (2) files of individuals who were nominated for Federal judgeships but who were never confirmed, which may include: Those documents mentioned in (1), above, as well as American Bar Association (ABA) rating letters; (3) files of individuals who were nominated and confirmed for Federal judgeships, which may include: Those documents mentioned in (1) and (2), above, as well as appointment records, oaths of office, Senate confirmation documentation, commission documentation, tax checks and credit reports waivers, medical reports, and nomination files of confirmed individuals that are maintained by employees working on the judicial nominations and confirmations; and (4) files on individuals who were candidates for, nominated for, or confirmed to the United States Sentencing Commission or an Executive Branch position, which may include those documents mentioned in (1) and (3), above, and any other related documents necessary and relevant to assessing the potential nomination and/or confirmation of a nominee for the United States Sentencing Commission or an Executive Branch position.

RECORD SOURCE CATEGORIES:

Non-exempt sources of information contained in this system include the general public, organizations, associations, the subjects of the records themselves, government agencies, as appropriate, and other relevant parties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b), all or a portion of the records or information contained in this system of records may be disclosed as a routine use pursuant to 5 U.S.C. 552a(b)(3) under the circumstances or for the purposes described below, to the extent such disclosures are compatible with the purposes for which the information was collected:

(A) To officials and employees of the White House concerning the selection, vetting, appointment, confirmation, or other activities related to a judicial candidate, judicial nominee, a confirmed Federal judge, or a candidate for or nominee to the United States Sentencing Commission or an Executive Branch position.

(B) Where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate Federal, State, local, territorial, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.

(C) To any person or entity that OLP has reason to believe possesses information regarding a matter within the jurisdiction of OLP, to the extent deemed to be necessary by OLP in order to elicit such information or cooperation from the recipient for use in the performance of an authorized activity.

(D) In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when the Department of Justice determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

(E) To an actual or potential party to litigation or the party's authorized representative for the purpose of negotiation or discussion of such matters as settlement, plea bargaining, or informal discovery proceedings.

(F) To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, interagency agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

(G) To a former employee of the Department for the purposes of: Responding to an official inquiry by a Federal, State, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

(H) To a Member of Congress, or staff acting on the Member's behalf, when the Member or staff requests the information for investigative or confirmation-related purposes.

(I) To the National Archives and Records Administration for the purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

(J) To appropriate agencies, entities, and persons when: (1) The Department suspects or has confirmed that there has been a breach of the system of records; (2) the Department has determined that, as a result of the suspected or confirmed breach, there is a risk of harm to individuals, the Department (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(K) To another Federal agency or Federal entity, when the Department determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach, or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(L) To such recipients and under such circumstances and procedures as are mandated by Federal statute or treaty.

(M) To any criminal, civil, or regulatory law enforcement authority (whether Federal, State, local, territorial, tribal, foreign, or international) where the information is relevant to the recipient entity's law enforcement responsibilities.

(N) To a governmental entity lawfully engaged in collecting law enforcement, law enforcement intelligence, or national security intelligence information, for such purposes.

(O) To any person, organization, or governmental entity in order to notify them of a serious terrorist threat for the purpose of guarding against or responding to such threat.

(P) To any person or entity if deemed by OLP to be necessary in order to elicit information or cooperation from the recipient for use by OLP in the performance of an authorized law enforcement activity.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system may be stored in electronic form, stored in paper folders, and/or stored on magnetic disks, hard disks, removable storage devices, or other electronic media. Electronic records are stored in databases and/or on hard disks, removable storage devices, or other electronic media. Records are stored securely in accordance with applicable executive orders, statutes, and agency implementing recommendations.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

For individuals who were candidates for Federal judgeships but who were never nominated, information is retrieved by use of the name of the nominee and by the year in which a decision was made not to nominate the candidate. For individuals who were nominated for Federal judgeships but who were never confirmed, information is retrieved by use of the name of the nominee and by the year in which a decision was made not to re-nominate the candidate. For individuals who were nominated and confirmed for Federal judgeships, information is retrieved by use of the name of the nominee and by the year in which they were confirmed. For individuals who were candidates for, nominated for, or confirmed to the United States Sentencing Commission or an Executive Branch position, information is retrieved by use of the name of the individual and by the year in which a decision was made on the individual's candidacy, nomination, or confirmation. Records for each of these categories are filed alphabetically by year.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with guidelines approved by the National Archives and Records Administration (DAA–0060–2012–0009). Records are destroyed for

candidates who are not nominated three years after the decision is made not to nominate the candidate. Records are destroyed for candidates who are nominated but not confirmed five years after the decision is made by the President not to re-nominate the candidate. Records for files of candidates who are nominated and confirmed are transferred to the National Archives sixty years after the date of confirmation.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Information in this system is maintained in accordance with applicable laws, rules, and policies on protecting individual privacy. The servers storing electronic data and the backup tapes stored onsite are located in locked rooms with access limited to authorized agency personnel. Backup tapes stored offsite are maintained in accordance with a government contract that requires adherence to applicable laws, rules, and policies on protecting individual privacy. Internet connections are protected by multiple firewalls. Security personnel conduct periodic vulnerability scans using DOJ-approved software to ensure security compliance, and security logs are enabled for all computers to assist in troubleshooting and forensics analysis during incident investigations. Users of individual computers can only gain access to the data with a valid user identification and password.

RECORD ACCESS PROCEDURES:

All requests for access to records must be in writing and should be addressed to the Chief, Initial Request Staff, Office of Information Policy, 1425 New York Avenue NW, Suite 11050, Washington, DC 20530–0001. Requests may also be made online at *https://www.justice.gov/oip/submit-and-track-request-or-appeal.* The envelope, letter, and/or subject line should be clearly marked ''Privacy Act Access Request.'' The request must describe the records sought in sufficient detail to enable Department personnel to locate them with a reasonable amount of effort in accordance with 28 CFR 16.41(d). The request must include a general description of the records sought and must include the requester's full name, current address, and date and place of birth. The request must be signed and either notarized or submitted under penalty of perjury. Some information may be exempt from the access provisions as described in the ''EXEMPTIONS PROMULGATED FOR THE SYSTEM'' paragraph, below. An individual who is the subject of a record in this system of records may request access to those records that are not exempt from access. A determination of whether a record may be accessed will be made at the time a request is received.

Although no specific form is required, you may obtain forms for this purpose from the FOIA/Privacy Act Mail Referral Unit, United States Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530, or on the Department of Justice website at *https://www.justice.gov/oip/make-foia-request-doj.*

More information regarding the Department's procedures for accessing records in accordance with the Privacy Act can be found at 28 CFR part 16 Subpart D, ''Protection of Privacy and Access to Individual Records Under the Privacy Act of 1974.''

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest or amend records maintained in this system of records must direct their requests to the address indicated in the ''RECORD ACCESS PROCEDURES'' paragraph, above. All requests to contest or amend records must be in writing, and the envelope, letter, and/or subject line should be clearly marked ''Privacy Act Amendment Request.'' All requests must state clearly and concisely what record is being contested, the reasons for contesting it, and the proposed amendment to the record. Some information may be exempt from the amendment provisions as described in the ''EXEMPTIONS PROMULGATED FOR THE SYSTEM'' paragraph, below. An individual who is the subject of a record in this system of records may contest or amend those records that are not exempt. A determination of whether a record is exempt from the amendment provisions will be made after a request is received.

More information regarding the Department's procedures for amending or contesting records in accordance with the Privacy Act can be found at 28 CFR 16.46, ''Requests for Amendment or Correction of Records.''

NOTIFICATION PROCEDURES:

Individuals may request to be notified if a record in this system of records pertains to them by utilizing the same procedures identified in the ''RECORD ACCESS PROCEDURES'' paragraph, above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

The Attorney General has exempted this system from subsections (c)(3); (d); (e)(1), (e)(4)(G), (H), and (I); and (f) of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(1), (k)(2), (k)(5), and (k)(6). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register**.

HISTORY:

50 FR 30309 (Sept. 12, 1985): Last published in full;

66 FR 8425 (Jan. 31, 2001); Added one routine use;

72 FR 3410 (Jan. 25, 2007): Added one routine use; and

82 FR 24147 (May 25, 2017): Rescinded 72 FR 3410, and added two routine uses.

[FR Doc. 2021–14988 Filed 7–13–21; 8:45 am]

BILLING CODE P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings

The National Science Board's Awards and Facilities Committee hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business, as follows:

TIME AND DATE: Monday, July 19, 2021, from 12:00–1:00 p.m. EDT.

PLACE: This meeting will be held by teleconference through the National Science Foundation.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The agenda of the teleconference is Committee Chair's Opening Remarks; discussion of context of the Arecibo Observatory clean-up costs award; and Committee Chair's Closing Remarks.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: Michelle McCrackin, *mmccrack@nsf.gov,* (703) 292–7000. Meeting information and updates may be found at the National Science Board website *www.nsf.gov/nsb.*

Chris Blair,

Executive Assistant to the National Science Board Office.

[FR Doc. 2021–15085 Filed 7–12–21; 4:15 pm]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting

The National Science Board's ad hoc Committee on Nominating the NSB Class of 2022–2028, hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business, as follows:

TIME AND DATE: Monday, July 19, 2021, from 5:00–6:00 p.m. EDT.

PLACE: This meeting will be held by teleconference through the National

Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The agenda of the teleconference is: To discuss NSB Class of 2022–2028 nominee cumulative rankings and arrive at a short list.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: Chris Blair, *cblair@nsf.gov,* 703/292–7000. Meeting information and updates may be found at *http://www.nsf.gov/nsb/meetings/notices.jsp#sunshine.* Please refer to the National Science Board website *www.nsf.gov/nsb* for general information.

Chris Blair,

Executive Assistant to the National Science Board Office.

[FR Doc. 2021–15089 Filed 7–12–21; 4:15 pm]

BILLING CODE 7555–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2021–107 and CP2021–109; MC2021–108 and CP2021–110; MC2021–109 and CP2021–111]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 16, 2021.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2021–107 and CP2021–109; *Filing Title:* USPS Request to Add Priority Mail Contract 710 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* July 8, 2021; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* July 16, 2021.

2. *Docket No(s).:* MC2021–108 and CP2021–110; *Filing Title:* USPS Request to Add Priority Mail Contract 711 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* July 8, 2021; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* July 16, 2021.

3. *Docket No(s).:* MC2021–109 and CP2021–111; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 197 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* July 8, 2021; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* July 16, 2021.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2021–14934 Filed 7–13–21; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* July 14, 2021.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on July 8, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 197 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2021–109, CP2021–111.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2021–15001 Filed 7–13–21; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* July 14, 2021.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on July 8, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 711 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2021–108, CP2021–110.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2021–15000 Filed 7–13–21; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* July 14, 2021.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on July 9, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 198 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2021–110, CP2021–112.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2021–15002 Filed 7–13–21; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* July 14, 2021.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on July 8, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 710 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2021–107, CP2021–109.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2021–14999 Filed 7–13–21; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* July 14, 2021.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 30, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 709 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2021–106, CP2021–108.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2021–14998 Filed 7–13–21; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92354; File No. SR–CBOE–2021–020]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Adopt Rule 6.10 To Introduce a Voluntary Multilateral Compression Service for SPX Options

July 8, 2021.

I. Introduction

On March 24, 2021, Cboe Exchange, Inc. (''Exchange'' or ''Cboe'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt new Cboe Rule 6.10 to introduce a voluntary compression service for market makers. The proposed rule change was published for comment in the **Federal Register** on April 12, 2021.[3] On May 25, 2021, the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[4] On July 7, 2021, the Exchange filed Amendment No. 1 to the proposed rule change, which replaced and superseded the proposed rule change in its entirety.[5] The Commission is publishing this notice to solicit comments on the Exchange's proposal, as modified by Amendment No. 1, from interested persons and is approving the Exchange's proposal, as

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 91482 (April 6, 2021), 86 FR 19067. Comments on the proposed rule change can be found on the Commission's website at: *https://www.sec.gov/comments/sr-cboe-2021-020/srcboe2021020.htm.*

[4] *See* Securities Exchange Act Release No. 92011, 86 FR 29334 (June 1, 2021). The Commission designated July 11, 2021, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[5] In Amendment No. 1, the Exchange: (1) Narrowed the list of index options that could be compressed to include only SPX options and limited the compression service to closing positions only, (2) expanded eligibility from only market makers to all TPHs, (3) added detail to the participation requirements to ensure that the proposed compression service is limited to legitimate compression purposes, (4) added further detail regarding the proposed compression service, and (5) added additional justification for the proposed rule change.

modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposed Rule Change, as Modified by Amendment No. 1

The Exchange proposes to adopt new Cboe Rule 6.10 to provide Trading Permit Holders (''TPHs'') with an additional voluntary compression tool that they can use to reduce required capital attributable to their S&P 500 Index (''SPX'') options holdings.[6] The Exchange's proposal is designed to address the impact on liquidity providers of the limited amount of capital available from clearing broker-dealers that is a consequence of, among other things, the fact that a number of clearing TPHs are now subsidiaries of U.S. bank holding companies that must, as a result of this affiliation, comply with additional bank capital regulatory requirements. In particular, bank capital rules do not currently permit deductions for hedged securities or offsetting options positions to the same extent that the federal securities laws and self-regulatory organization rules do for securities. The impact of this dynamic most acutely impacts SPX options due to the popularity of SPX options and the significant number of open index options positions combined with their large notional value.

In its filing, the Exchange explains that it has observed that these bank capital rules have caused clearing broker-dealers to impose stricter position limits on their clearing members, which can impact the liquidity that TPHs, notably market makers who are frequently the counterparties to a significant portion of SPX option trades, might be able to supply.[7] This impact would be most pronounced when markets are volatile, precisely at the time when the market would benefit from increased liquidity provision.

The bank regulatory agencies have approved replacing the Current Exposure Method (''CEM'') with the Standardized Approach to Counterparty Credit Risk (''SA–CCR'') in the near future, and the Exchange believes SA–CCR will be ''less punitive'' to clearing broker-dealers because SA–CCR ''will help correct many of CEM's flaws by incorporating risk-sensitive principles, such as delta weighting options positions and more beneficial netting of derivative contracts that have economically meaningful relationships.'' [8] Nevertheless, the Exchange believes that SA–CCR ''will not eliminate [TPHs'] need for compression'' as the ability to compress SPX positions can ''enable them to provide more meaningful liquidity to the market, particularly during times of volatility when the market needs this liquidity most.'' [9] The Exchange further asserts that ''this additional liquidity may result in tighter spreads and more execution opportunities, which benefits all investors.'' [10]

As described more fully in the Notice, as modified by Amendment No. 1, in order to be able to participate in the new multilateral compression service, a TPH must request access to the service and complete a standard test to demonstrate its capacity to participate. While the Exchange initially proposed that only registered market makers would be eligible to participate and a larger number of index options would be eligible for inclusion, the Exchange has modified its proposal to allow any TPH to request access and to limit the service to SPX options only, where the need for compression is most present.[11]

The Exchange will offer multilateral compression periodically, initially twice per month, in order to allow TPHs to respond to intra-month reviews of regulatory capital for their positions by their clearing broker-dealers.[12] To participate, a TPH must submit a ''position list'' after the close of trading on the specified day that details all of the open SPX positions it would like to close out and compress. The list must specify the amount of capital reduction associated with each closing position, the theoretical value of each position, the maximum cost the TPH is willing to accept to compress all of the positions (in the aggregate), the maximum cost per unit of capital reduction the TPH is willing to accept, and at least one risk constraint of the TPH's choosing including a minimum and maximum value. TPHs have flexibility in choosing these values as specified in the proposed rule.[13]

After the deadline for submission of the position lists, the Exchange runs an automated process to match offsetting positions in an anonymized manner. The process identifies the outcome that would result in the maximum aggregate capital reduction among all participating TPHs (picking at random from among equal outcomes). The Exchange determines the compression price for each option, which will be ''as close as possible to the midpoint of the [national best bid and offer] at the close of the trading day or the daily marking time, subject to adjustment using generally accepted volatility and options pricing models in the event of wide markets, market volatility, or other unusual circumstances.'' [14]

The Exchange then notifies the TPH participants of each TPH's individual compression proposal.[15] Each TPH with at least one offsetting position must notify the Exchange whether it accepts its individual proposal.[16] If all compression participants accept their individual proposals, then the Exchange effects the transactions at the specified prices off the exchange.[17] If one compression participant declines, then no compression transactions are effected.[18]

III. Discussion and Commission Findings

After careful review of the proposal and the comments received, all of which supported the proposal and recommended that the Commission approve it, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[19] In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,[20] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove

[6] Currently, the Exchange offers other methods by which TPHs can compress certain types of options holdings, including (1) Cboe Rule 5.6, which allows for compression orders in SPX options and (2) Cboe Rule 6.8, which allows TPHs to transfer positions off-exchange if the transfer does not result in a change of ownership and reduced the risk-weighted assets associated with those positions.

[7] *See* Amendment No. 1, at 8–10.

[8] *See id.* at 10.

[9] *See id.* at 11.

[10] *See id.*

[11] *See generally* Amendment No. 1.

[12] *See* Amendment No. 1, at 17.

[13] *See, e.g.,* proposed Cboe Rule 6.10(b)(2) (concerning a theoretical value ''calculated in a manner of the compression participant's choosing'').

[14] Proposed Cboe Rule 6.10(c)(2).

[15] *See id.*

[16] *See* proposed Cboe Rule 6.10(d).

[17] *See id.* In Amendment No. 1, the Exchange represented that it will disseminate compression transaction information to OPRA. The Exchange further states that it has completed system work to apply an indicator to such information and is working with OPRA so that OPRA is able to incorporate that indicator. The Exchange expects OPRA to complete its work in 2021, but notes that the indicator may not be available upon implementation of the compression service. *See* Amendment No. 1, at 27.

[18] *See id.*

[19] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[20] 15 U.S.C. 78f(b)(5).

impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

In support of its proposal, the Exchange states that compression transactions under Cboe Rule 6.10 will have a narrow scope and are intended and designed to achieve the limited purpose of capital reduction.[21] The Exchange further explains that it understands that TPHs have no need for price discovery or price improvement for compression transactions, because the purpose of the transfer is to reduce capital requirements attributable to the TPHs' positions and the price of the compression transaction is a secondary concern.[22] The Exchange further states that its proposal is needed because liquidity providers accumulate SPX positions to accommodate executions of customer orders, and do so at increasing levels during times of market volatility.[23] While TPHs hold these positions prior to expiration, many may have little to no value and closure of these positions may have little impact on the risk exposure of the TPH's portfolio.[24] Yet, maintenance of these positions requires ongoing risk management and capital, which can impact the capital the TPHs have available to trade.[25] The Exchange asserts that its proposal will limit the use of the compression service to legitimate compression purposes and provide an objective process to allow TPHs to manage capital and margin requirements so that they have sufficient capital available to provide to the markets, which will benefit all market participants.[26]

The Commission believes that the Exchange's proposal will provide a narrowly-tailored, objective, and not unfairly discriminatory mechanism for TPHs to efficiently compress open SPX positions for the purpose of reducing required capital. As the Commission has previously observed, the affiliation of clearing brokers with bank holding companies has introduced the need for liquidity providers and their clearing firms to more conservatively manage holdings to comply with applicable bank regulatory capital requirements.[27] The ability to compress positions in an efficient, cost-effective manner can help liquidity providers and their clearing firms manage associated bank capital constraints. Tailored compression tools that are carefully designed to directly address the greatest need for compression, where portfolio holdings have a material impact on available capital, can have beneficial effects on the market and available liquidity especially during periods of volatile trading without impacting trading or conferring any inappropriate benefits on any market participant.

The proposal's focus on closing positions in SPX options appropriately recognizes the role SPX options play as major component of the capital impact felt by clearing broker-dealers and the TPHs for whom they clear, which results from the large notional value and popularity of SPX options as a frequently traded product with large open interest. Compression trades are unlike arm's length transactions as their sole purpose is to close open positions to compress SPX portfolio positions to reduce required capital charges. The Exchange's proposal is a narrowly-tailored means of doing so and, as a result, should facilitate the ability of compression participants to provide liquidity and trade, especially during volatile periods. As such, the Exchange's proposal removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest.

Further, the mechanics of the compression service are reasonably designed to provide an objective process by which TPHs can avail themselves of the ability to potentially compress their open SPX positions for capital reduction purposes. The proposed process does not prioritize any TPH but rather aims to find the greatest aggregate capital reduction among the SPX options submitted for consideration, and honors each TPH's customized risk constraints in doing so. Ultimately, however, all TPHs selected for participation must approve of the compression transaction proposed by the Exchange and if any one TPH declines the proposed transaction then the compression transaction for all TPHs will not occur. If approved, transactions take place after the close of regular trading hours and the trades will be reported to OPRA with an indicator attached to note they are compression trades,[28] thus providing public transparency of these compression trades.

Accordingly, for the reasons discussed above, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the Act, including Section 6(b)(5) of the Act[29] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 1, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2021–020 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2021–020. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official

[21] *See* Amendment No. 1, at 37.

[22] *See id.*

[23] *See id.* at 38.

[24] *See id.*

[25] *See id.*

[26] *See id.* at 41. Two commenters supported the proposed rule change, asserting that the proposed compression service procedure would provide an additional risk management tool that can be used by Cboe market makers to efficiently manage the capital and margin requirements of their portfolios. *See* Letters to Vanessa Countryman, Secretary, Commission, from Joanna Mallers, Secretary, FIA Principal Traders Group, dated May 3, 2021, at 2; and Michael Golding, Head of Trading, Optiver US LLC and Aldo van Audenaerde, Head of Trading, AMS Derivatives B.V., dated April 22, 2021, at 1.

[27] *See, e.g.,* Securities Exchange Act Release No. 91079 (October 14, 2020), 85 FR 66590 (October 20, 2020) (order granting approval of proposed rule change to adopt position compression cross orders in SPX options).

[28] *See supra* note 17.

[29] 15 U.S.C. 78f(b)(5).

business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2021–020, and should be submitted on or before August 4, 2021.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the 30th day after the date of publication of notice of the filing of Amendment No. 1 in the **Federal Register**. Amendment No. 1 narrowed the scope of parts of the proposed rule change and also provided additional rationale and support for the proposed rule change. Specifically, in Amendment No. 1, the Exchange: (1) Narrowed the list of index options that could be compressed to include only SPX options and limited the compression service to closing positions only, (2) expanded eligibility from only market makers to all TPHs, (3) added detail to the participation requirements to ensure that the proposed compression service is limited to legitimate compression purposes, (4) added further detail regarding the proposed compression service, and (5) added additional justification for the proposed rule change.

The changes to the proposal and additional information provided in Amendment No. 1 focus the proposal on SPX and closing-only positions, expand eligibility to the compression service, and add necessary detail to the rule text to more fully and clearly reflect the applicable requirements and describe how the compression service will operate. Collectively, these changes, supported by the additional and clarified rationale, better calibrate the proposal to the greatest need for compression and remove potential ambiguity about how the service will work without introducing material new concepts over the original proposal. The changes in Amendment No. 1 assist the Commission in evaluating the Exchange's proposal and in determining that it is consistent with the Act. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[30] to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[31] that the proposed rule change (SR–CBOE–2021–020), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–14901 Filed 7–13–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92348; File No. SR–PEARL–2021–28]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Pearl Options Fee Schedule To Remove References and Fees Associated With the 10Gb Fiber Connection

July 8, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 28, 2021, MIAX PEARL, LLC (''MIAX Pearl'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the MIAX Pearl Options Fee Schedule (the ''Fee Schedule'') to remove text pertaining to 10 gigabit (''Gb'') connectivity that will no longer be offered by the Exchange and the corresponding fees for those services.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX Pearl's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to remove references and fees for the 10Gb fiber connection for Members [3] and non-Members. The Exchange will cease offering 10Gb connectivity as of July 1, 2021. The Exchange will continue to offer 10Gb ultra-low latency (''ULL'') connectivity.

The Exchange currently offers various bandwidth alternatives for connectivity to the Exchange, including its primary and secondary facilities. These connectivity offerings consist of a 1Gb fiber connection, a 10Gb fiber connection, and a 10Gb ULL fiber connection. The Exchange's MIAX Express Network Interconnect (''MENI'') can be configured to provide Members and non-Members of the Exchange network connectivity to the trading platforms, market data systems, test systems, and disaster recovery facilities of both the Exchange and its affiliate, Miami International Securities Exchange, LLC (''MIAX''), via a single, shared connection.

On February 4, 2021, the Exchange issued a notice that MIAX Pearl and MIAX would decommission the 10Gb fiber connection in June 2021.[4] This

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[30] 15 U.S.C. 78s(b)(2).

[31] *Id.*

[32] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ''Member'' means an individual or organization that is registered with the Exchange pursuant to Chapter II of Exchange Rules for purposes of trading on the Exchange as an ''Electronic Exchange Member'' or ''Market Maker.'' Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[4] *See https://www.miaxoptions.com/alerts/2021/02/04/miax-options-and-miax-pearl-options-deprecation-10g-ll-infrastructure-and.* The Exchanged issued two subsequent alerts on March 4, 2021 and March 29, 2021 reminding market participants of its intent to decommission 10 Gb connectivity in June 2021. *See https://www.miaxoptions.com/alerts/2021/03/04/miax-*

means that all Members and non-Members utilizing the 10Gb fiber connection would have to migrate their connections to either the 1Gb fiber connection or the 10Gb ULL fiber connection. Members and non-Members utilizing the 10Gb fiber connection could perform the migration from April 12, 2021 until June 30, 2021.

The Exchange now proposes to amend the Fee Schedule to remove references and fees associated with the 10Gb fiber connection. The Exchange proposes to remove the references to the 10Gb fiber connection from the tables in Sections 4)c)–d) of the Fee Schedule, which are related to Member and non-Member network connectivity testing and certification fees. The Exchange will continue to offer the 10 Gb ULL connection and does not propose to amend the fees for Member and non-Member network connectivity testing and certification. The Exchange also proposes to amend the tables in Sections 5)a)–b) of the Fee Schedule, related to Member and non-Member monthly network connectivity fees, to remove the fee columns for the 10Gb fiber connection.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [5] in general, and furthers the objectives of Section 6(b)(4) of the Act [6] in particular, in that it is an equitable allocation of reasonable fees and other charges among its members and issuers and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Exchange believes the elimination of the 10Gb fiber connection fee and related rule text is reasonable because the Exchange will no longer offer this functionality as of July 1, 2021, thus making the fees irrelevant going forward. The Exchange notes that, because the 10Gb fiber connection is outdated technology and that Members and non-Members have other connectivity options, the Exchange planned to phase out this connectivity service in its entirety on or before July 1, 2021.[7]

The Exchange believes the proposed change is reasonable, equitably allocated and not unfairly discriminatory because the Exchange has experienced a steady decrease in the number of Members and non-Members that purchase the 10Gb connection over the past few years. Further, as a consequence of more firms choosing to purchase the 10Gb ULL connection over the 10Gb connection, the Exchange believes that, if it did not decommission the 10Gb connections, it would be unable to provide the current level of support to those firms that have such connections. The Exchange notes that from the time the Exchange initially issued its notice that it would decommission the 10Gb connection to now, 11 Members and 2 non-Members migrated their 10Gb connections to 10Gb ULL connections.[8] The Exchange also believes the proposed changes are reasonable as the Exchange provided Members and non-Members six months' notice that the Exchange planned to make these changes. During that time, Members and non-Members had the ability to make the business decision to: (1) Switch to the Exchange's 1Gb or 10Gb ULL connections; (2) access the Exchange through another Exchange Member as a Sponsored User; [9] or (3) no longer access the Exchange. Market participants can also choose from 15 competing options markets. In the event that a market participant views the Exchange's connectivity and access fees as more or less attractive than competing markets, that market participant can choose to connect to the Exchange indirectly or may choose not to connect to the Exchange and connect instead to one or more of the other 15 options markets.

Further, the Exchange notes that there is no regulatory or legal requirement for any Member or non-Member to connect to the Exchange. It is a business decision of each Member and non-Member whether to connect to the Exchange and, if so, whether to connect via 1Gb, 10Gb, or 10Gb ULL connection. The Exchange believes the proposed rule change to remove the fees and rule text related to the 10Gb fiber connection is reasonable as the Exchange has observed a minimal amount of Members and non-Members utilize the 10Gb fiber connection and, therefore, the continuation of this connectivity alternative does not warrant the infrastructure and ongoing Systems maintenance required to support this connectivity alternative. The Exchange notes that its affiliate, MIAX Emerald, LLC (''MIAX Emerald''), never offered the 10Gb fiber connection as a connectivity alternative. The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory because the Exchange will no longer offer the 10Gb connection to all Members and non-Members while continuing to offer both 1Gb and 10Gb ULL connectivity to all.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes eliminate the fees and related rule text that apply to the 10Gb fiber connection, which the Exchange will no longer offer as of July 1, 2021. As noted above, while there are a very small number of Members and non-Members that utilized the 10Gb fiber connection, Members and non-Members are not required to utilize this connectivity alternative. As discussed above, decommissioning of the 10Gb connection should have minimal to no impact on Members and non-Members as those Members that utilize a 10Gb connection have other means to access the Exchange, either by to transitioning to the 1Gb or 10Gb ULL connection, or access the Exchange through a Sponsored User. Accordingly, the Exchange does not believe that its proposal imposes any burden on intra-market competition, or places certain market participants at a relative disadvantage compared to other market participants.

In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

options-and-miax-pearl-options-reminder-and-updates-deprecation-10g-ll and https://www.miaxoptions.com/alerts/2021/03/29/miax-options-and-miax-pearl-options-3rd-reminder-deprecation-10g-ll.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) and (5).

[7] *See supra* note 4.

[8] The Exchange notes that no Member or non-Member transferred from the 10Gb connection to a 1Gb connection and no Member or non-Member disconnected from the Exchange.

[9] *See* Exchange Rule 210.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6) [11] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–PEARL–2021–28 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–PEARL–2021–28. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PEARL–2021–28 and should be submitted on or before August 4, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–14904 Filed 7–13–21; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92351; File No. SR–MIAX–2021–27]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Options Fee Schedule To Remove References and Fees Associated With the 10Gb Fiber Connection

July 8, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 28, 2021, Miami International Securities Exchange, LLC (''MIAX Options'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Options Fee Schedule (the ''Fee Schedule'') to remove text pertaining to 10 gigabit (''Gb'') connectivity that will no longer be offered by the Exchange and the corresponding fees for those services.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/* at MIAX Options' principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to remove references and fees for the 10Gb fiber connection for Members [3] and non-Members. The Exchange will cease offering 10Gb connectivity as of July 1, 2021. The Exchange will continue to offer 10Gb ultra-low latency (''ULL'') connectivity.

The Exchange currently offers various bandwidth alternatives for connectivity to the Exchange, including its primary

[3] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

and secondary facilities. These connectivity offerings consist of a 1Gb fiber connection, a 10Gb fiber connection, and a 10Gb ULL fiber connection. The Exchange's MIAX Express Network Interconnect (''MENI'') can be configured to provide Members and non-Members of the Exchange network connectivity to the trading platforms, market data systems, test systems, and disaster recovery facilities of both the Exchange and its affiliate, MIAX PEARL, LLC (''MIAX Pearl''), via a single, shared connection.

On February 4, 2021, the Exchange issued a notice that MIAX and MIAX Pearl would decommission the 10Gb fiber connection in June 2021.[4] This means that all Members and non-Members utilizing the 10Gb fiber connection would have to migrate their connections to either the 1Gb fiber connection or the 10Gb ULL fiber connection. Members and non-Members utilizing the 10Gb fiber connection could perform the migration from April 12, 2021 until June 30, 2021.

The Exchange now proposes to amend the Fee Schedule to remove references and fees associated with the 10Gb fiber connection. The Exchange proposes to remove the references to the 10Gb fiber connection from the tables in Sections (4)(c)–(d) of the Fee Schedule, which are related to Member and non-Member network connectivity testing and certification fees. The Exchange will continue to offer the 10 Gb ULL connection and does not propose to amend the fees for Member and non-Member network connectivity testing and certification. The Exchange also proposes to amend the tables in Sections (5)(a)–(b) of the Fee Schedule, related to Member and non-Member monthly network connectivity fees, to remove the fee columns for the 10Gb fiber connection.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act[5] in general, and furthers the objectives of Section 6(b)(4) of the Act[6] in particular, in that it is an equitable allocation of reasonable fees and other charges among its members and issuers and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Exchange believes the elimination of the 10Gb fiber connection fee and related rule text is reasonable because the Exchange will no longer offer this functionality as of July 1, 2021, thus making the fees irrelevant going forward. The Exchange notes that, because the 10Gb fiber connection is outdated technology and that Members and non-Members have other connectivity options, the Exchange planned to phase out this connectivity service in its entirety on or before July 1, 2021.[7]

The Exchange believes the proposed change is reasonable, equitably allocated and not unfairly discriminatory because the Exchange has experienced a steady decrease in the number of Members and non-Members that purchase the 10Gb connection over the past few years since the 10Gb ULL connection became available in October 2015.[8] Further, as a consequence of more firms choosing to purchase the 10Gb ULL connection over the 10Gb connection, the Exchange believes that, if it did not decommission the 10Gb connections, it would be unable to provide the current level of support to those firms that have such connections. The Exchange notes that from the time the Exchange initially issued its notice that it would decommission the 10Gb connection to now, 11 Members and 2 non-Members migrated their 10Gb connections to 10Gb ULL connections.[9] The Exchange also believes the proposed changes are reasonable as the Exchange provided Members and non-Members six months' notice that the Exchange planned to make these changes. During that time, Members and non-Members had the ability to make the business decision to: (1) Switch to the Exchange's 1Gb or 10Gb ULL connections; (2) access the Exchange through another Exchange Member as a Sponsored User;[10] or (3) no longer access the Exchange. Market participants can also choose from 15 competing options markets. In the event that a market participant views the Exchange's connectivity and access fees as more or less attractive than competing markets, that market participant can choose to connect to the Exchange indirectly or may choose not to connect to the Exchange and connect instead to one or more of the other 15 options markets.

Further, the Exchange notes that there is no regulatory or legal requirement for any Member or non-Member to connect to the Exchange. It is a business decision of each Member and non-Member whether to connect to the Exchange and, if so, whether to connect via 1Gb, 10Gb, or 10Gb ULL connection. The Exchange believes the proposed rule change to remove the fees and rule text related to the 10Gb fiber connection is reasonable as the Exchange has observed a minimal amount of Members and non-Members utilize the 10Gb fiber connection and, therefore, the continuation of this connectivity alternative does not warrant the infrastructure and ongoing Systems maintenance required to support this connectivity alternative. The Exchange notes that its affiliate, MIAX Emerald, LLC (''MIAX Emerald''), never offered the 10Gb fiber connection as a connectivity alternative. The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory because the Exchange will no longer offer the 10Gb connection to all Members and non-Members while continuing to offer both 1Gb and 10Gb ULL connectivity to all.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes eliminate the fees and related rule text that apply to the 10Gb fiber connection, which the Exchange will no longer offer as of July 1, 2021. As noted above, while there are a very small number of Members and non-Members that utilized the 10Gb fiber connection, Members and non-Members are not required to utilize this connectivity alternative. As discussed above, decommissioning of the 10Gb connection should have minimal to no impact on Members and non-Members

[4] *See https://www.miaxoptions.com/alerts/2021/02/04/miax-options-and-miax-pearl-options-deprecation-10g-ll-infrastructure-and.* The Exchanged issued two subsequent alerts on March 4, 2021 and March 29, 2021 reminding market participants of its intent to decommission 10 Gb connectivity in June 2021. *See https://www.miaxoptions.com/alerts/2021/03/04/miax-options-and-miax-pearl-options-reminder-and-updates-deprecation-10g-ll* and *https://www.miaxoptions.com/alerts/2021/03/29/miax-options-and-miax-pearl-options-3rd-reminder-deprecation-10g-ll.*

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) and (5).

[7] *See supra* note 4.

[8] *See* Securities Exchange Act Release No. 75986 (September 25, 2015), 80 FR 59204 (October 1, 2015) (SR–MIAX–2015–55).

[9] The Exchange notes that no Member or non-Member transferred from the 10Gb connection to a 1Gb connection and no Member or non-Member disconnected from the Exchange.

[10] *See* Exchange Rule 210.

as those Members that utilize a 10Gb connection have other means to access the Exchange, either by to transitioning to the 1Gb or 10Gb ULL connection, or access the Exchange through a Sponsored User. Accordingly, the Exchange does not believe that its proposal imposes any burden on intra-market competition, or places certain market participants at a relative disadvantage compared to other market participants.

In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6) [12] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2021–27 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2021–27. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2021–27 and should be submitted on or before August 4, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Matthew DeLesDernier,

Assistant Secretary.

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BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] 17 CFR 200.30–3(a)(12).

SURFACE TRANSPORTATION BOARD

[Docket No. AB 83 (Sub–No. 17X); Docket No. AB 355 (Sub–No. 44X)]

Maine Central Railroad Company—Abandonment Exemption—in Kennebec and Somerset Counties, Me.; Springfield Terminal Railway Company—Discontinuance of Service Exemption—in Kennebec and Somerset Counties, Me.

Maine Central Railroad Company (MEC) and Springfield Terminal Railway Company (ST) (collectively, Applicants), have jointly filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* for MEC to abandon, and ST to discontinue service over, an approximately 32.46-mile rail line known as the Madison Branch, between milepost 0.00 and milepost 32.46, in Kennebec and Somerset Counties, Me. (the Line). The Line traverses U.S. Postal Service Zip Codes 04963, 04901, 04957, 04950, 04911, and 04958.

Applicants have certified that: (1) No local traffic has moved over the Line for at least two years; (2) there is no overhead traffic on the Line; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7 and 1105.8 (notice of environmental and historic report), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment and discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To

address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received,[1] the exemptions will be effective on August 13, 2021, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues must be filed by July 23, 2021.[2] Formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2), and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 26, 2021.[3] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 3, 2021.

All pleadings, referring to Docket Nos. AB 83 (Sub–No. 17X) and AB 355 (Sub-No. 44), should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on Applicants' representative, Robert B. Burns, Pan Am Railways, 1700 Iron Horse Park, North Billerica, MA 01862. If the verified notice contains false or misleading information, the exemption is void ab initio.

Applicants have filed a combined environmental and historic report that addresses the potential effects, if any, of the abandonment on the environment and historic resources. OEA will issue a Draft Environmental Assessment (Draft EA) by July 19, 2021. The Draft EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the Draft EA becomes available to the public.

Environmental, historic preservation, public use, or interim trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), MEC shall file a notice of consummation with the Board to signify that it has exercised the abandonment authority granted and fully abandoned the Line. If consummation has not been effected by MEC's filing of a notice of consummation by July 14, 2022, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at *www.stb.gov.*

Decided: July 8, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Brendetta Jones,

Clearance Clerk.

[FR Doc. 2021–14912 Filed 7–13–21; 8:45 am]

BILLING CODE 4915–01–P

[1] Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (*i.e.,* subsidy or purchase) and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(2)(i).

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemptions' effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemptions' effective date.

[3] Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on a Proposed Release of Airport Property for Non-Aeronautical Use at Pocahontas Municipal Airport, Pocahontas, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA is considering a request from Pocahontas Municipal Airport to release approximately 3.055 acres of airport property located on Patrick Drive on the eastern portion of the Airport property as shown on the approved Airport layout Plan (ALP).

DATES: Comments must be received on or before August 13, 2021.

ADDRESSES: Send comments on this document to: Mr. Glenn Boles, Federal Aviation Administration, Arkansas/ Oklahoma Airports District Office Manager, 10101 Hillwood Parkway, Fort Worth, TX 76177.

FOR FURTHER INFORMATION CONTACT:

Mr. Danny Ellis, Chairman, Pocahontas Municipal Airport Commission, P.O. Box 896, Pocahontas AR 72455, Telephone: (870) 248–1141

Mr. Glenn Boles, Federal Aviation Administration, Arkansas/Oklahoma Airports District Office Manager, 10101 Hillwood Parkway, Fort Worth, TX 76177, Telephone: (817) 222–5630

Documents reflecting this FAA action may be reviewed at the above locations.

SUPPLEMENTARY INFORMATION: The proposal consists of 3.055 acres of airport property (Tract 1) located on the Southeast quadrant of Section 34, Township 19 North Range 1 East, Randolph County, Arkansas which was part of 368.36 acres of land that was conveyed to the City of Pocahontas via a Quitclaim Deed dated April 17, 1947, by the United States of America acting by and through the War Assets Administrator under the provisions of the Surplus Property Act of 1944.

This portion of land is outside the forecasted need for aviation development and is not needed for indirect or direct aeronautical use. A release for the adjoining property was obtained through a deed of release dated February 16, 1966, the Airport now wishes to sell the land to the adjoining property owner. Income from the conversion of this parcel will benefit the aviation community by reinvestment in the airport.

Approval does not constitute a commitment by the FAA to financially assist in the conversion of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA. The disposition of proceeds from the conversion of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999. In accordance with section 47107(h) of Title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

Issued in Fort Worth, TX, on July 6, 2021.

Ignacio Flores,

Director, Airports Division, FAA, Southwest Region.

[FR Doc. 2021–14654 Filed 7–13–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2021–0099]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Forward Thinking Systems LLC

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA requests public comment on an application for exemption from Forward Thinking Systems LLC (FTS) to allow its Fleetcam

system, which is equipped with cameras, to be mounted lower in the windshield on commercial motor vehicles than is currently permitted.

DATES: Comments must be received on or before August 13, 2021.

ADDRESSES: You may submit comments identified by Docket Number FMCSA-2021-0099 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=FMCSA-2021-0099.* Follow the online instructions for submitting comments.
- *Mail:* Docket Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.
- *Fax:* (202) 493–2251.

FOR FURTHER INFORMATION CONTACT: Mr. José R. Cestero, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC–PSV, (202) 366–5541, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. If you have questions on viewing or submitting material to the docket, call Dockets Operations at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA 2021–0099), indicate the specific section of this document to which the comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *www.regulations.gov/#!docketDetail;D=FMCSA-2021-0099,* click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov/#!docketDetail;D=FMCSA-2021-0099* and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

Privacy Act

DOT solicits comments from the public to better inform its regulatory processes, in accordance with statute 49 U.S.C. 31315(b)(6)(A). DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL 14—Federal Docket Management System), which can be reviewed at *www.transportation.gov/privacy.*

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31315(b) to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request. The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must specify the effective period of the exemption (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.315(c) and 49 CFR 381.300(b)).

FTS's Application for Exemption

The FMCSRs require devices meeting the definition of ''vehicle safety technology'' to be mounted (1) not more than 4 inches below the upper edge of the area swept by the windshield wipers, or (2) not more than 7 inches above the lower edge of the area swept by the windshield wipers, and outside the driver's sight lines to the road and highway signs and signals. FTS has applied for an exemption from 49 CFR 393.60(e)(1) to allow its Fleetcam device system, which is equipped with camera(s) and safety technologies, to be mounted lower in the windshield than is currently permitted. A copy of the exemption application is included in the docket referenced at the beginning of this notice.

Request for Comments

In accordance with 49 U.S.C. 31315(b)(6), FMCSA requests public comment from all interested persons on FTS's application for an exemption. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested

persons should continue to examine the public docket for new material.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2021–14983 Filed 7–13–21; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2021–0051]

Commercial Driver's License Requirements: Dealers' Choice Truckaway System, Inc. dba Truckmovers; Irontiger Logistics, Inc.; TM Canada, Inc.; Victory Driveaway, Inc., Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT)

ACTION: Application for exemption; request for comments.

SUMMARY: FMCSA announces that it has received an application from a group of affiliated driveaway motor carriers for an exemption from the requirement that drivers transporting certain empty passenger vehicles hold a commercial driver's license (CDL). The exemption would cover drivers delivering commercial motor vehicles (CMVs) with seating capacities of 16 or more, including the driver, but with a gross vehicle weight rating (GVWR) of less than 26,001 pounds. The application was submitted by Dealers' Choice Truckaway System, Inc. dba Truckmovers; Irontiger Logistics, Inc.; TM Canada, Inc.; and Victory Driveaway, Inc. (the applicants). The applicants transport minibuses from points of manufacture or distribution to school districts around the country. They argue that the current shortage of CDL drivers threatens to leave bus manufacturers without sufficient means to move their minibuses to customers.

DATES: Comments must be received on or before August 13, 2021.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA–2021–0051 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* See the Public Participation and Request for Comments section below for further information.
- *Mail:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Each submission must include the Agency name and the docket number for this notice (FMCSA–2021–0051). Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory exemptions process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; (202) 366–2722; *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2021–0051), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *www.regulations.gov* and put the docket number, ''FMCSA–2021–0051'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The Agency's decision must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulatory Requirements

Section 383.3 (49 CFR 383.3) requires that every individual operating a CMV in interstate, foreign, or intrastate commerce hold a CDL. Under 49 CFR 383.5, the definition of CMV includes a

motor vehicle designed to transport 16 or more passengers, including the driver, even if the vehicle is less than 26,001 pounds. Generally, the driver would be required to possess a Class C CDL with a passenger endorsement (49 CFR 383.91, 383.93).

Applicants' Request

The applicants request an exemption from the CDL requirements for a driver operating an empty passenger CMV. The seating capacities of the minibuses transported by the applicants' drivers may reach 33 passengers or more, including the driver but in all cases the GVWR is less than 26,001 pounds. The applicants state that they have experienced challenges finding CDL drivers and that this situation threatens to leave bus manufactures without sufficient means to move minibuses to distributors and customers. To ensure an equivalent level of safety, the applicant emphasizes that the drivers would transport empty passenger CMVs with a GVW less than 26,001 pounds, would remain subject to the driver qualification standards in 49 CFR part 391, and would still hold a valid operators' license.

IV. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on the application for an exemption from 49 CFR part 383. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2021–14982 Filed 7–13–21; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2021–0070]

Inspection, Repair and Maintenance; Inspector Qualifications; Application for an Exemption From the American Trucking Associations (ATA)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) requests public comment on an application from the American Trucking Associations (ATA) for an exemption from the Federal Motor Carrier Safety Regulations (FMCSRs) that would allow an individual who completes a training program consistent with a set of Recommended Practices (RPs) developed by ATA's Technology and Maintenance Council (TMC) to be considered a qualified inspector for purposes of the periodic inspection rule, or a qualified brake inspector, for purposes of the brake system inspection, repair and maintenance requirements.

DATES: Comments must be received on or before August 13, 2021.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2021–0070 using any of the following methods:

- Website: *http://www.regulations.gov.* Follow the instructions for submitting comments on the Federal electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Bring comments to Docket Operations in Room W12–140 of the West Building Ground Floor, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday–Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Docket Operations.

Instructions: All submissions must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the ''Public Participation'' heading below. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the ''Privacy Act'' heading for further information.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to Docket Operations in Room W12–140, U.S. Department of Transportation, West Building Ground Floor, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Docket Operations.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Public participation: The *http://www.regulations.gov* website is generally available 24 hours each day, 365 days each year. You may find electronic submission and retrieval help and guidelines under the ''help'' section of the *http://www.regulations.gov* website as well as the DOT's *http://docketsinfo.dot.gov* website. If you would like notification that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments online.

FOR FURTHER INFORMATION CONTACT: Mr. Luke W. Loy, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC–PSV, (202) 366–0676, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2021–0070), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or

recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comments online, go to *www.regulations.gov* and put the docket number, ''FMCSA–2021–0070'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may grant or not grant this application based on your comments.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31315(b) to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request. The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must specify the effective period of the exemption (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.315(c) and 49 CFR 381.300(b)).

III. ATA Application for Exemption

The FMCSRs require individuals performing (1) annual inspections of commercial motor vehicles (CMVs) under 49 CFR 396.17, or (2) inspections, maintenance, repairs, or service to the brake systems on CMVs under § 396.25, to be properly qualified to perform such inspections. Under §§ 396.19(a)(3)(ii) and 396.25(d)(3)(ii), an individual who has a combination of training or experience totaling at least 1 year as outlined in those sections is considered to be qualified to conduct those inspections. ATA has applied for an exemption to allow an individual who has successfully completed a training program consistent with TMC RPs to be a qualified inspector or qualified brake inspector without having the required 1 year of training or experience. A copy of the application is included in the docket referenced at the beginning of this notice.

IV. Request for Comments

In accordance with 49 U.S.C. 31315(b)(6), FMCSA requests public comment from all interested persons on ATA's application for exemption. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2021–14979 Filed 7–13–21; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2020–0134]

Commercial Driver's License: Tornado Bus Company; Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA has received an application from the Tornado Bus Company (Tornado) requesting an exemption for its drivers who currently hold a Mexican Licencia Federal de Conductor from the following provisions of the Federal Motor Carrier Safety Regulations (FMCSRs); general entry-level driver training (ELDT) requirements; the commercial driver's license (CDL) knowledge test required to obtain a commercial learner's permit (CLP); the skills test required for CLP holders to obtain a CDL; and the knowledge and skills test requirements for a CDL passenger endorsement. Tornado specifically requests the exemption for its drivers who have been granted permanent resident status from the Department of Homeland Security (DHS) and have over two years' experience driving in the United States and Mexico. FMCSA requests public comment on Tornado's application for exemption.

DATES: Comments must be received on or before August 13, 2021.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA–2020–0134 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Send comments to Docket Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Deliver comments to Docket Operations, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the *Privacy Act* heading below.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to

help you, please call (202) 366–9317 or (202) 366–9826 before visiting Docket Operations.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, contact Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–4225. Email: *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2020–0134), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *www.regulations.gov* and put the docket number, ''FMCSA–2020–0134'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Under 49 CFR 380.609 driver training is required after February 7, 2022 for individuals applying for a Commercial Driver's License (CDL) for the first time; upgrading their current CDL from Class B to Class A; or obtaining a new Passenger (P); School bus (S); or Hazardous materials (H) endorsement. All drivers of commercial motor vehicles (CMVs) requiring a CDL must have the knowledge and skills specified in 49 CFR 383.111 and 383.113, respectively. An applicant for a P endorsement to a CDL must satisfy both the knowledge and skills required by 49 CFR 383.117.

Tornado Bus Company has requested an exemption from 49 CFR 380.609 and 49 CFR 383.111, 383.113, and 383.117. A copy of the exemption application is included in the docket.

IV. Request for Comments

In accordance with 49 U.S.C. 31315(b)(6), FMCSA requests public comment from all interested persons on Tornado's exemption application. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2021–14981 Filed 7–13–21; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2021–0098]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption From EROAD Inc.

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA requests public comment on an application for exemption from EROAD Inc. (EROAD) to allow its Dashcam system, which is equipped with cameras, to be mounted lower in the windshield on commercial motor vehicles than is currently permitted.

DATES: Comments must be received on or before August 13, 2021.

ADDRESSES: You may submit comments identified by Docket Number FMCSA-2021–0098 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=FMCSA-2021-0098.* Follow the online instructions for submitting comments.
- *Mail:* Docket Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

• *Fax:* (202) 493–2251.

FOR FURTHER INFORMATION CONTACT: Mr. José R. Cestero, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC–PSV, (202) 366–5541, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. If you have questions on viewing or submitting material to the docket, call Dockets Operations at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA 2021–0098), indicate the specific section of this document to which the comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *www.regulations.gov/#!docketDetail;D=FMCSA–2021–0098,* click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov/#!docketDetail;D=FMCSA-2021-0098* and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Docket Operations.

Privacy Act

DOT solicits comments from the public to better inform its regulatory processes, in accordance with statute 49 U.S.C. 31315(b)(6)(A). DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL 14—Federal Docket Management System), which can be reviewed at *www.transportation.gov/privacy.*

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31315(b) to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request. The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must specify the effective period of the exemption (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.315(c) and 49 CFR 381.300(b)).

EROAD's Application for Exemption

The FMCSRs require devices meeting the definition of ''vehicle safety technology'' to be mounted (1) not more than 4 inches below the upper edge of the area swept by the windshield wipers, or (2) not more than 7 inches above the lower edge of the area swept by the windshield wipers, and outside the driver's sight lines to the road and highway signs and signals. EROAD has applied for an exemption from 49 CFR 393.60(e)(1) to allow its Dashcam system, which is equipped with camera(s) and safety technologies, to be mounted lower in the windshield than is currently permitted. A copy of the exemption application is included in the docket referenced at the beginning of this notice.

Request for Comments

In accordance with 49 U.S.C. 31315(b)(6), FMCSA requests public comment from all interested persons on EROAD's application for an exemption. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2021–14984 Filed 7–13–21; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance

AGENCY: Department of the Treasury (Treasury).

ACTION: Notice of financial assistance.

SUMMARY: In accordance with Treasury's regulations, for the enforcement of Title IX of the Education Amendments of 1972, as amended (Title IX), this notice provides an updated list of federal financial assistance administered by the U.S. Department of the Treasury.

FOR FURTHER INFORMATION CONTACT: Lydia Aponte Morales, Assistant Director for Civil Rights, (202) 923–0507.

SUPPLEMENTARY INFORMATION: Title IX prohibits recipients of federal financial assistance from discriminating on the basis of sex in educational programs or activities. Specifically, the statute states

that ''[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance,'' with specific exceptions for various entities, programs, and activities. 20 U.S.C. 1681(a). Title IX and Treasury's Title IX regulations prohibit discrimination on the basis of sex in the operation of, and the provision or denial of benefits by, educational programs or activities conducted not only by educational institutions but by other entities as well, including, for example, law enforcement agencies, and for profit and nonprofit organizations.

List of Federal Financial Assistance

Note: All recipients of federal financial assistance from Treasury are subject to Title IX, but Title IX's anti-discrimination prohibitions are limited to the educational components of the recipient's program or activity, if any.

Failure to list a type of federal assistance below shall not mean, if Title IX is otherwise applicable, that a program or activity is not covered by Title IX.

1. Assistance provided by the Departmental Offices, Office of Domestic Finance, Office of Financial Institutions, Community Development Financial Institutions Fund—Technical Assistance Component, Riegle Community Development and Regulatory Improvement Act of 1994, sec. 114, 12 U.S.C. 4701 *et seq.*

2. Assistance provided by the Departmental Offices, Office of Domestic Finance, Office of Financial Institutions, Community Development Financial Institutions Fund—Financial Assistance Component, Riegle Community Development and Regulatory Improvement Act of 1994, sec. 114, 12 U.S.C. 4701 *et seq.*

3. Assistance provided by the Departmental Offices, Office of Domestic Finance, Office of Financial Institutions, Community Development Financial Institutions Fund—Native American Community Development Financial Institutions Assistance (NACA) Program, Financial Assistance (FA) Awards, 12 U.S.C. 4701 *et seq.*

4. Assistance provided by the Departmental Offices, Office of Domestic Finance, Office of Financial Institutions, Community Development Financial Institutions Fund—Native American Community Development Financial Institutions Assistance Program, Technical Assistance Grants, 2 U.S.C. 4701 *et seq.*

5. Assistance provided by the Departmental Offices, Office of Domestic Finance, Office of Financial Institutions, Community Development Financial Institutions Fund—Bank Enterprise Award Program, Bank Enterprise Award Act of 1991, as amended, 12 U.S.C. 1834a.

6. Assistance provided by the Departmental Offices, Office of Domestic Finance, Office of Financial Institutions, Community Development Financial Institutions Fund, Capital Magnet Fund, Housing and Economic Recovery Act of 2008, sec. 1339, 12 U.S.C. 4569.

7. Assistance provided by the Internal Revenue Service, Tax Counseling for the Elderly Grant Program, Revenue Act of 1978, sec. 163, Public Law 95–600, 92 Stat. 2763, 2810–11.

8. Assistance provided by the Internal Revenue Service, Volunteer Income Tax Assistance Program, Tax Reform Act of 1969, Public Law 91–172, 83 Stat. 487.

9. Assistance provided by the Internal Revenue Service, Volunteer Income Tax Assistance Grant Program, Consolidated Appropriations Act, 2008, Public Law 110–161, 121 Stat. 1844, 1975–76.

10. Assistance provided by the Internal Revenue Service, Low Income Taxpayer Clinic Grant Program, Internal Revenue Service Restructuring and Reform Act of 1998, sec. 3601, 26 U.S.C. 7526.

11. Assistance provided by the United States Mint U.S. Commemorative Coin Programs pursuant to specific acts of Congress that authorize United States commemorative coin and medal programs provide assistance. *See, e.g.,* the National September 11 Memorial & Museum Commemorative Medal Act of 2010, Public Law 111–221, 31 U.S.C. 5112 (note); United States Marshals Service 225th Anniversary Commemorative Coin Act, Public Law 112–104 (2012), 31 U.S.C. 5112 (note); Mark Twain Commemorative Coin Act, Public Law 112–201 (2012), 31 U.S.C. 5112 (note); and March of Dimes Commemorative Coin Act of 2012, Public Law 112–209, 31 U.S.C. 5112 (note).

12. Assistance provided by the Departmental Offices, Treasury Executive Office for Asset Forfeiture, Equitable sharing program (transfer of forfeited property to state and local law enforcement agencies), 18 U.S.C. 981(e)(2); 21 U.S.C. 881(e)(1)(A); and 31 U.S.C. 9705(a)(1)(G) and (h).

13. Various Treasury Bureaus and Offices (including the Internal Revenue Service), Unreimbursed detail of Federal Employees through the Intergovernmental Personnel Act, 5 U.S.C. 3371 through 3376.

14. Assistance provided by the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012, Public Law 112–141, 33 U.S.C. 1321.

15. Assistance provided by the Departmental Offices, Office of Financial Research, Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 as amended, 12 U.S.C. 5301, *et seq.*

16. Assistance provided by the Departmental Offices, Office of Economic Policy, under the Social Security Act, 42 U.S.C. 1397n–1397n–73, Social Impact Partnerships to Pay for Results Act (SIPPRA).

In addition to the above, further information on Treasury federal financial assistance can be found by consulting the Catalog of Federal Domestic Assistance (CFDA) at *https://www.cfda.gov/.* If using the internet site, please select ''Search the Catalog,'' select ''Browse the Catalog-By Agency,'' and then click on Treasury. Catalog information is also available by calling, toll free, 1–800–699–8331 or by writing to: Federal Domestic Assistance Catalog Staff (MVS), General Services Administration, Reporters Building, Room 101, 300 7th Street SW, Washington, DC 20407.

Authority: 20 U.S.C. 1681–1688; 65 FR 52881, codified at 31 CFR part 28.

Dated: July 9, 2021.

Lydia Aponte Morales,

Assistant Director for External Civil Rights, Office of Civil Rights and Diversity.

[FR Doc. 2021–14949 Filed 7–13–21; 8:45 am]

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